



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER III

ACTS PERMITTED IN RELATION TO COPYRIGHT WORKS

Miscellaneous: broadcasts and cable programmes

68 Incidental recording for purposes of broadcast or cable programme

- (1) This section applies where by virtue of a licence or assignment of copyright a person is authorised to broadcast or include in a cable programme service—
 - (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 or cable programme—
 - (a) in the case of a literary, dramatic or musical work, or an adaptation of such a work, to make a sound recording or film of the work or adaptation;
 - (b) in the case of an artistic work, to take a photograph or make a film of the work;
 - (c) in the case of a sound recording or film, to make a copy of it.
- (3) That licence is subject to the condition that the recording, film, photograph or copy in question—
 - (a) shall not be used for any other purpose, and
 - (b) shall be destroyed within 28 days of being first used for broadcasting the work or, as the case may be, including it in a cable programme service.

Status: This is the original version (as it was originally enacted).

- (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.

69 Recording for purposes of supervision and control of broadcasts and cable programmes

- (1) Copyright is not infringed by the making or use by the British Broadcasting Corporation, for the purpose of maintaining supervision and control over programmes broadcast by them, of recordings of those programmes.
- (2) Copyright is not infringed by—
- (a) the making or use of recordings by the Independent Broadcasting Authority for the purposes mentioned in section 4(7) of the Broadcasting Act 1981 (maintenance of supervision and control over programmes and advertisements); or
 - (b) anything done under or in pursuance of provision included in a contract between a programme contractor and the Authority in accordance with section 21 of that Act.
- (3) Copyright is not infringed by—
- (a) the making by or with the authority of the Cable Authority, or the use by that Authority, for the purpose of maintaining supervision and control over programmes included in services licensed under Part I of the Cable and Broadcasting Act 1984, of recordings of those programmes; or
 - (b) anything done under or in pursuance of—
 - (i) a notice or direction given under section 16 of the Cable and Broadcasting Act 1984 (power of Cable Authority to require production of recordings); or
 - (ii) a condition included in a licence by virtue of section 35 of that Act (duty of Authority to secure that recordings are available for certain purposes).

70 Recording for purposes of time-shifting

The making for private and domestic use of a recording of a broadcast or cable programme 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 or cable programme or in any work included in it.

71 Photographs of television broadcasts or cable programmes

The making for private and domestic use of a photograph of the whole or any part of an image forming part of a television broadcast or cable programme, or a copy of such a photograph, does not infringe any copyright in the broadcast or cable programme or in any film included in it.

72 Free public showing or playing of broadcast or cable programme

- (1) The showing or playing in public of a broadcast or cable programme to an audience who have not paid for admission to the place where the broadcast or programme is to be seen or heard does not infringe any copyright in—
 - (a) the broadcast or cable programme, or
 - (b) any sound recording or film included in it.
- (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 or programme, 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 or programmes is only incidental to the main purposes of the club or society.
- (4) Where the making of the broadcast or inclusion of the programme in a cable programme service 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 or programme shall be taken into account in assessing the damages for that infringement.

73 Reception and re-transmission of broadcast in cable programme service

- (1) This section applies where a broadcast made from a place in the United Kingdom is, by reception and immediate re-transmission, included in a cable programme service.
- (2) The copyright in the broadcast is not infringed—
 - (a) if the inclusion is in pursuance of a requirement imposed under section 13(1) of the Cable and Broadcasting Act 1984 (duty of Cable Authority to secure inclusion in cable service of certain programmes), or
 - (b) if and to the extent that the broadcast is made for reception in the area in which the cable programme service is provided and is not a satellite transmission or an encrypted transmission.
- (3) The copyright in any work included in the broadcast is not infringed—
 - (a) if the inclusion is in pursuance of a requirement imposed under section 13(1) of the Cable and Broadcasting Act 1984 (duty of Cable Authority to secure inclusion in cable service of certain programmes), or
 - (b) if and to the extent that the broadcast is made for reception in the area in which the cable programme service is provided;but where the making of the broadcast was an infringement of the copyright in the work, the fact that the broadcast was re-transmitted as a programme in a cable programme service shall be taken into account in assessing the damages for that infringement.

Status: This is the original version (as it was originally enacted).

74 Provision of sub-titled copies of broadcast or cable programme

- (1) A designated body may, for the purpose of providing people who are deaf or hard of hearing, or physically or mentally handicapped in other ways, with copies which are sub-titled or otherwise modified for their special needs, make copies of television broadcasts or cable programmes and issue copies to the public, without infringing any copyright in the broadcasts or cable programmes or works included in them.
- (2) A “designated body” means a body designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless he is satisfied that it is not established or conducted for profit.
- (3) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) This section does not apply if, or to the extent that, there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.

75 Recording for archival purposes

- (1) A recording of a broadcast or cable programme of a designated class, or a copy of such a recording, may be made for the purpose of being placed in an archive maintained by a designated body without thereby infringing any copyright in the broadcast or cable programme or in any work included in it.
- (2) In subsection (1) “designated” means designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless he is satisfied that it is not established or conducted for profit.
- (3) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.