



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART II

#### RIGHTS IN PERFORMANCES

##### *Offences*

#### **198 Criminal liability for making, dealing with or using illicit recordings**

- (1) A person commits an offence who without sufficient consent—
  - (a) makes for sale or hire, or
  - (b) imports into the United Kingdom otherwise than for his private and domestic use, or
  - (c) possesses in the course of a business with a view to committing any act infringing the rights conferred by this Part, or
  - (d) in the course of a business—
    - (i) sells or lets for hire, or
    - (ii) offers or exposes for sale or hire, or
    - (iii) distributes,a recording which is, and which he knows or has reason to believe is, an illicit recording.
- (2) A person commits an offence who causes a recording of a performance made without sufficient consent to be—
  - (a) shown or played in public, or
  - (b) broadcast or included in a cable programme service,thereby infringing any of the rights conferred by this Part, if he knows or has reason to believe that those rights are thereby infringed.
- (3) In subsections (1) and (2) “sufficient consent” means—
  - (a) in the case of a qualifying performance, the consent of the performer, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) in the case of a non-qualifying performance subject to an exclusive recording contract—
- (i) for the purposes of subsection (1)(a) (making of recording), the consent of the performer or the person having recording rights, and
  - (ii) for the purposes of subsection (1)(b), (c) and (d) and subsection (2) (dealing with or using recording), the consent of the person having recording rights.

The references in this subsection to the person having recording rights are to the person having those rights at the time the consent is given or, if there is more than one such person, to all of them.

- (4) No offence is committed under subsection (1) or (2) by the commission of an act which by virtue of any provision of Schedule 2 may be done without infringing the rights conferred by this Part.
- (5) A person guilty of an offence under subsection (1)(a), (b) or (d)(iii) is liable—
- (a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or both.
- (6) A person guilty of any other offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months, or both.