



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER III

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

##### *General*

#### **[<sup>F1</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"—

---

*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 28B. (See end of Document for details)*

---

- (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
  - (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**

- F1** 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)

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 28B.