



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER III

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

##### *Libraries and archives*

#### **37 Libraries and archives: introductory.**

- (1) In sections 38 to 43 (copying by librarians and archivists)—
  - (a) references in any provision to a prescribed library or archive are to a library or archive of a description prescribed for the purposes of that provision by regulations made by the Secretary of State; and
  - (b) references in any provision to the prescribed conditions are to the conditions so prescribed.
- (2) The regulations may provide that, where a librarian or archivist is required to be satisfied as to any matter before making or supplying a copy of a work—
  - (a) he may rely on a signed declaration as to that matter by the person requesting the copy, unless he is aware that it is false in a material particular, and
  - (b) in such cases as may be prescribed, he shall not make or supply a copy in the absence of a signed declaration in such form as may be prescribed.
- (3) Where a person requesting a copy makes a declaration which is false in a material particular and is supplied with a copy which would have been an infringing copy if made by him—
  - (a) he is liable for infringement of copyright as if he had made the copy himself, and

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- (b) the copy shall be treated as an infringing copy.
- (4) The regulations may make different provision for different descriptions of libraries or archives and for different purposes.
- (5) Regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) References in this section, and in sections 38 to 43, to the librarian or archivist include a person acting on his behalf.

### **38 Copying by librarians: articles in periodicals.**

- (1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply a copy of an article in a periodical without infringing any copyright in the text, in any illustrations accompanying the text or in the typographical arrangement.
- (2) The prescribed conditions shall include the following—
  - (a) that copies are supplied only to persons satisfying the librarian that they require them for purposes of research or private study, and will not use them for any other purpose;
  - (b) that no person is furnished with more than one copy of the same article or with copies of more than one article contained in the same issue of a periodical; and
  - (c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.

### **39 Copying by librarians: parts of published works.**

- (1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply from a published edition a copy of part of a literary, dramatic or musical work (other than an article in a periodical) without infringing any copyright in the work, in any illustrations accompanying the work or in the typographical arrangement.
- (2) The prescribed conditions shall include the following—
  - (a) that copies are supplied only to persons satisfying the librarian that they require them for purposes of research or private study, and will not use them for any other purpose;
  - (b) that no person is furnished with more than one copy of the same material or with a copy of more than a reasonable proportion of any work; and
  - (c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.

### **40 Restriction on production of multiple copies of the same material.**

- (1) Regulations for the purposes of sections 38 and 39 (copying by librarian of article or part of published work) shall contain provision to the effect that a copy shall be supplied only to a person satisfying the librarian that his requirement is not related to any similar requirement of another person.

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- (2) The regulations may provide—
- (a) that requirements shall be regarded as similar if the requirements are for copies of substantially the same material at substantially the same time and for substantially the same purpose; and
  - (b) that requirements of persons shall be regarded as related if those persons receive instruction to which the material is relevant at the same time and place.

#### [<sup>F1</sup>40A Lending of copies by libraries or archives.

- (1) Copyright in a work of any description is not infringed by the lending of a book by a public library if the book is within the public lending right scheme. For this purpose—
- (a) “the public lending right scheme” means the scheme in force under section 1 of the Public Lending Right Act 1979, and
  - (b) 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.
- (2) Copyright in a work is not infringed by the lending of copies of the work by a prescribed library or archive (other than a public library) which is not conducted for profit.]

#### Textual Amendments

**F1** S. 40A inserted (1.12.1996) by [S.I. 1996/2967](#), [reg. 11\(2\)](#) (with [Pt. III](#))

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

**C1** S. 40A(2) modified (1.12.1996) by [S.I. 1996/2967](#), [reg. 35](#) (with [Pt. III](#))

#### 41 Copying by librarians: supply of copies to other libraries.

- (1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply to another prescribed library a copy of—
- (a) an article in a periodical, or
  - (b) the whole or part of a published edition of a literary, dramatic or musical work, without infringing any copyright in the text of the article or, as the case may be, in the work, in any illustrations accompanying it or in the typographical arrangement.
- (2) Subsection (1)(b) does not apply if at the time the copy is made the librarian making it knows, or could by reasonable inquiry ascertain, the name and address of a person entitled to authorise the making of the copy.

#### 42 Copying by librarians or archivists: replacement copies of works.

- (1) The librarian or archivist of a prescribed library or archive may, if the prescribed conditions are complied with, make a copy from any item in the permanent collection of the library or archive—
- (a) in order to preserve or replace that item by placing the copy in its permanent collection in addition to or in place of it, or
  - (b) in order to replace in the permanent collection of another prescribed library or archive an item which has been lost, destroyed or damaged,

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without infringing the copyright in any literary, dramatic or musical work, in any illustrations accompanying such a work or, in the case of a published edition, in the typographical arrangement.

- (2) The prescribed conditions shall include provision for restricting the making of copies to cases where it is not reasonably practicable to purchase a copy of the item in question to fulfil that purpose.

#### **43 Copying by librarians or archivists: certain unpublished works.**

- (1) The librarian or archivist of a prescribed library or archive may, if the prescribed conditions are complied with, make and supply a copy of the whole or part of a literary, dramatic or musical work from a document in the library or archive without infringing any copyright in the work or any illustrations accompanying it.
- (2) This section does not apply if—
- (a) the work had been published before the document was deposited in the library or archive, or
  - (b) the copyright owner has prohibited copying of the work,
- and at the time the copy is made the librarian or archivist making it is, or ought to be, aware of that fact.
- (3) The prescribed conditions shall include the following—
- (a) that copies are supplied only to persons satisfying the librarian or archivist that they require them for purposes of research or private study and will not use them for any other purpose;
  - (b) that no person is furnished with more than one copy of the same material; and
  - (c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to their production.

#### **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.

VALID FROM 01/02/2004

#### **[<sup>F2</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.

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- (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—
- (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.]

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#### Textual Amendments

- F2** 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**

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