



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER VIII

#### THE COPYRIGHT TRIBUNAL

##### *Jurisdiction and procedure*

#### 149 Jurisdiction of the Tribunal.

[<sup>F1</sup>The Copyright Tribunal has jurisdiction under this Part] to hear and determine proceedings under—

- <sup>F2</sup>[( za ) section 73 (determination of royalty or other remuneration to be paid with respect to re-transmission of broadcast including work);]
- <sup>F3</sup>[( zb ) section 93C (application to determine amount of equitable remuneration under section 93B);]
  - (a) section 118, 119, or 120 (reference of licensing scheme);
  - (b) section 121 or 122 (application with respect to entitlement to licence under licensing scheme);
  - (c) section 125, 126 or 127 (reference or application with respect to licensing by licensing body);
- [<sup>F4</sup>(ca) section 128B (reference by the Secretary of State under section 128A);]
- [<sup>F5</sup>(cc) section 135D or 135E (application or reference with respect to use as of right of sound recordings in broadcasts <sup>F6</sup>. . . ); ]
- (d) section 139 (appeal against order as to coverage of licensing scheme or licence);
- (e) section 142 (application to settle royalty or other sum payable for [<sup>F7</sup>lending of certain works];

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- (f) section 144(4) (application to settle terms of copyright licence available as of right);
- [<sup>F8</sup>(fa) paragraph 7 of Schedule ZA1 (application to determine compensation for use of orphan works).]
- <sup>F9</sup>(g) .....
- <sup>F9</sup>(h) .....

#### Textual Amendments

- F1** Words in s. 149 substituted (1.12.1996) by S.I. 1996/2967, **reg. 24(2)(a)** (with Pt. III)
- F2** S. 149(za) inserted (1.10.1996) by 1996 c. 55, s. 138, **Sch. 9 para. 3** (with s. 43(6)); S.I. 1996/2120, art. 4(1), **Sch. 1**
- F3** S. 149(zb) inserted (1.12.1996) by S.I. 1996/2967, **reg. 14(2)** (with Pt. III)
- F4** S. 149(ca) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(6)** (with regs. 31-40)
- F5** S. 149(cc) inserted by Broadcasting Act 1990 (c. 42, SIF 96), s. 175(2)
- F6** Words in s. 149(cc) repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(2), **Sch. 2** (with regs. 31-40)
- F7** Words in s. 149(e) substituted (1.12.1996) by S.I. 1996/2967, **reg. 13(3)** (with Pt. III)
- F8** S. 149(fa) inserted (29.10.2014) by The Copyright and Rights in Performances (Certain Permitted Uses of Orphan Works) Regulations 2014 (S.I. 2014/2861), regs. 1, **3(3)**
- F9** S. 149(g)(h) omitted (1.12.1996) by virtue of S.I. 1996/2967, **reg. 24(2)(b)** (with Pt. III)

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

- C1** S. 149 amended by Broadcasting Act 1990 (c. 42, SIF 96), s. 176, **Sch. 17 para. 7(1)**

### 150 General power to make rules.

- (1) The Lord Chancellor may, after consultation with the Lord Advocate, make rules for regulating proceedings before the Copyright Tribunal and, subject to the approval of the Treasury, as to the fees chargeable in respect of such proceedings.
- <sup>F10</sup>[(2) The rules may apply in relation to the Tribunal, as respects proceedings in England and Wales or Northern Ireland, any of the provisions of Part I of the Arbitration Act 1996.]
- (3) Provision shall be made by the rules—
- prohibiting the Tribunal from entertaining a reference under section 118, 119 or 120 by a representative organisation unless the Tribunal is satisfied that the organisation is reasonably representative of the class of persons which it claims to represent;
  - specifying the parties to any proceedings and enabling the Tribunal to make a party to the proceedings any person or organisation satisfying the Tribunal that they have a substantial interest in the matter; and
  - requiring the Tribunal to give the parties to proceedings an opportunity to state their case, in writing or orally as the rules may provide.
- (4) The rules may make provision for regulating or prescribing any matters incidental to or consequential upon any appeal from the Tribunal under section 152 (appeal to the court on point of law).
- (5) Rules 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.

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### Textual Amendments

**F10** S. 150(2) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 50** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with Sch. 2)

### Modifications etc. (not altering text)

**C2** S. 150: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, **arts. 2, 3, Sch.** (with **art. 7**)

S. 150 modified (30.6.1999) by S.I. 1999/1748, **art. 3, Sch. 1 para. 10**

**C3** S. 150(1): transfer of certain functions (1.7.1999) by S.I. 1999/1750, **arts. 1, 2, Sch. 1** (with **art. 7**); S.I. 1998/3178, **art. 3**

## 151 Costs, proof of orders, &c.

- (1) The Copyright Tribunal may order that the costs of a party to proceedings before it shall be paid by such other party as the Tribunal may direct; and the Tribunal may tax or settle the amount of the costs, or direct in what manner they are to be taxed.
- (2) A document purporting to be a copy of an order of the Tribunal and to be certified by the chairman to be a true copy shall, in any proceedings, be sufficient evidence of the order unless the contrary is proved.
- (3) As respect proceedings in Scotland, the Tribunal has the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath, as an arbiter under a submission.

### [<sup>F11</sup>151A Award of interest.

- (1) Any of the following, namely—
  - (a) a direction under section 123(3) so far as relating to a licence for [<sup>F12</sup>communicating a work to the public];
  - (b) a direction under section 128(3) so far as so relating;
  - (c) an order under section 135D(1); and
  - (d) an order under section 135F confirming or varying an order under section 135D(1),

may award simple interest at such rate and for such period, beginning not earlier than the relevant date and ending not later than the date of the order, as the Copyright Tribunal thinks reasonable in the circumstances.

- (2) In this section “ the relevant date ” means—
  - (a) in relation to a direction under section 123(3), the date on which the reference was made;
  - (b) in relation to a direction under section 128(3), the date on which the reference or application was made;
  - (c) in relation to an order section 135D(1), the date on which the first payment under section 135C(2) became due; and
  - (d) in relation to an order under section 135F, the date on which the application was made.]

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#### Textual Amendments

- F11** S. 151A inserted (1.11.1996 with effect as mentioned in s. 139(3)) by 1996 c. 55, s. 139(2) (with s. 43(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F12** Words in s. 151A(1)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I.2003/2498), reg. 2(1), **Sch. 1 para. 7** (with regs. 31-40)

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