



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART II

RIGHTS IN PERFORMANCES

^{x1} Offences

199 Order for delivery up in criminal proceedings.

- (1) The court before which proceedings are brought against a person for an offence under section 198 may, if satisfied that at the time of his arrest or charge he had in his possession, custody or control in the course of a business an illicit recording of a performance, order that it be delivered up to a person having performers' rights or recording rights in relation to the performance or to such other person as the court may direct.
- (2) For this purpose a person shall be treated as charged with an offence—
 - (a) in England, Wales and Northern Ireland, when he is orally charged or is served with a summons or indictment;
 - (b) in Scotland, when he is cautioned, charged or served with a complaint or indictment.
- (3) An order may be made by the court of its own motion or on the application of the prosecutor (or, in Scotland, the Lord Advocate or procurator-fiscal), and may be made whether or not the person is convicted of the offence, but shall not be made—
 - (a) after the end of the period specified in section 203 (period after which remedy of delivery up not available), or
 - (b) if it appears to the court unlikely that any order will be made under section 204 (order as to disposal of illicit recording).
- (4) An appeal lies from an order made under this section by a magistrates' court—
 - (a) in England and Wales, to the Crown Court, and
 - (b) in Northern Ireland, to the county court;

Status: Point in time view as at 01/04/1996. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 199. (See end of Document for details)

and in Scotland, where an order has been made under this section, the person from whose possession, custody or control the illicit recording has been removed may, without prejudice to any other form of appeal under any rule of law, appeal against that order in the same manner as against sentence.

- (5) A person to whom an illicit recording is delivered up in pursuance of an order under this section shall retain it pending the making of an order, or the decision not to make an order, under section 204.
- (6) Nothing in in this section affects the powers of the court under section 43 of the ^{M1}Powers of Criminal Courts Act 1973, [^{F1}Part II of the Proceeds of Crime (Scotland) Act 1995] or [^{F2}Article 11 of the Criminal Justice (Northern Ireland) Order 1994] (general provisions as to forfeiture in criminal proceedings).

Textual Amendments

F1 Words in s. 199(6) substituted (1.4.1996) by 1995 c. 20, ss. 5, 7(2), **Sch. 4 para. 70(3)**

F2 Words in s. 199(6) substituted (9.1.1995) by S.I. 1994/2795 (N.I. 15), art. 26(1), **Sch. 2 para. 14**; S.R. 1994/446, **art. 2**

Marginal Citations

M1 1973 c. 62.

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