



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER VI

##### REMEDIES FOR INFRINGEMENT

##### *Rights and remedies of copyright owner*

#### **97 Provisions as to damages in infringement action.**

- (1) Where in an action for infringement of copyright it is shown that at the time of the infringement the defendant did not know, and had no reason to believe, that copyright subsisted in the work to which the action relates, the plaintiff is not entitled to damages against him, but without prejudice to any other remedy.
- (2) The court may in an action for infringement of copyright having regard to all the circumstances, and in particular to—
  - (a) the flagrancy of the infringement, and
  - (b) any benefit accruing to the defendant by reason of the infringement,award such additional damages as the justice of the case may require.

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

**C1** Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by [S.I. 1997/3032](#), [reg. 23](#) (with [Pt. IV](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 97.