



# Digital Economy Act 2010

## 2010 CHAPTER 24

### *Online infringement of copyright*

- 17 Power to make provision about injunctions preventing access to locations on the internet**
- (1) The Secretary of State may by regulations make provision about the granting by a court of a blocking injunction in respect of a location on the internet which the court is satisfied has been, is being or is likely to be used for or in connection with an activity that infringes copyright.
  - (2) “Blocking injunction” means an injunction that requires a service provider to prevent its service being used to gain access to the location.
  - (3) The Secretary of State may not make regulations under this section unless satisfied that—
    - (a) the use of the internet for activities that infringe copyright is having a serious adverse effect on businesses or consumers,
    - (b) making the regulations is a proportionate way to address that effect, and
    - (c) making the regulations would not prejudice national security or the prevention or detection of crime.
  - (4) The regulations must provide that a court may not grant an injunction unless satisfied that the location is—
    - (a) a location from which a substantial amount of material has been, is being or is likely to be obtained in infringement of copyright,
    - (b) a location at which a substantial amount of material has been, is being or is likely to be made available in infringement of copyright, or
    - (c) a location which has been, is being or is likely to be used to facilitate access to a location within paragraph (a) or (b).
  - (5) The regulations must provide that, in determining whether to grant an injunction, the court must take account of—

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*Status: This is the original version (as it was originally enacted).*

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- (a) any evidence presented of steps taken by the service provider, or by an operator of the location, to prevent infringement of copyright in the qualifying material,
  - (b) any evidence presented of steps taken by the copyright owner, or by a licensee of copyright in the qualifying material, to facilitate lawful access to the qualifying material,
  - (c) any representations made by a Minister of the Crown,
  - (d) whether the injunction would be likely to have a disproportionate effect on any person's legitimate interests, and
  - (e) the importance of freedom of expression.
- (6) The regulations must provide that a court may not grant an injunction unless notice of the application for the injunction has been given, in such form and by such means as is specified in the regulations, to—
- (a) the service provider, and
  - (b) operators of the location.
- (7) The regulations may, in particular—
- (a) make provision about when a location is, or is not, to be treated as being used to facilitate access to another location,
  - (b) provide that notice of an application for an injunction may be given to operators of a location by being published in accordance with the regulations,
  - (c) provide that a court may not make an order for costs against the service provider,
  - (d) make different provision for different purposes, and
  - (e) make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (8) The regulations may—
- (a) modify Chapter 6 of Part 1 of the Copyright, Designs and Patents Act 1988, and
  - (b) make consequential provision modifying Acts and subordinate legislation.
- (9) Regulations under this section may not include provision in respect of proceedings before a court in England and Wales without the consent of the Lord Chancellor.
- (10) Regulations under this section must be made by statutory instrument.
- (11) A statutory instrument containing regulations under this section may not be made unless—
- (a) the Secretary of State has complied with section 18, and
  - (b) a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (12) In this section—
- “copyright owner” has the same meaning as in Part 1 of the Copyright, Designs and Patents Act 1988;
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
  - “modify” includes amend, repeal or revoke;
  - “operator”, in relation to a location on the internet, means a person who has editorial control over material available at the location;

“qualifying material”, in relation to an injunction, means the material taken into account by the court for the purposes of provision made under subsection (4);

“service provider” has the same meaning as in section 97A of the Copyright, Designs and Patents Act 1988;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978.

(13) In the application of this section to Scotland—

“costs” means expenses;

“injunction” means interdict.