



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER III

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

##### *General*

#### [<sup>F1</sup>28A Making of temporary copies

Copyright in a literary work, other than a computer program or a database, or in a dramatic, musical or artistic work, the typographical arrangement of a published edition, a sound recording or a film, is not infringed by the making of a temporary copy which is transient or incidental, which is an integral and essential part of a technological process and the sole purpose of which is to enable—

- (a) a transmission of the work in a network between third parties by an intermediary; or
  - (b) a lawful use of the work;
- and which has no independent economic significance.]

#### Textual Amendments

- F1** S. 28A inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 8\(1\)](#) (with [regs. 31-40](#))

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

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## **[<sup>F2</sup>28B Personal copies for private use**

- (1) The making of a copy of a work, other than a computer program, by an individual does not infringe copyright in the work provided that the copy—
  - (a) is a copy of—
    - (i) the individual’s own copy of the work, or
    - (ii) a personal copy of the work made by the individual,
  - (b) is made for the individual’s private use, and
  - (c) is made for ends which are neither directly nor indirectly commercial.
- (2) In this section “the individual’s own copy” is a copy which—
  - (a) has been lawfully acquired by the individual on a permanent basis,
  - (b) is not an infringing copy, and
  - (c) has not been made under any provision of this Chapter which permits the making of a copy without infringing copyright.
- (3) In this section a “personal copy” means a copy made under this section.
- (4) For the purposes of subsection (2)(a), a copy “lawfully acquired on a permanent basis”—
  - (a) includes a copy which has been purchased, obtained by way of a gift, or acquired by means of a download resulting from a purchase or a gift (other than a download of a kind mentioned in paragraph (b)); and
  - (b) does not include a copy which has been borrowed, rented, broadcast or streamed, or a copy which has been obtained by means of a download enabling no more than temporary access to the copy.
- (5) In subsection (1)(b) “private use” includes private use facilitated by the making of a copy—
  - (a) as a back up copy,
  - (b) for the purposes of format-shifting, or
  - (c) for the purposes of storage, including in an electronic storage area accessed by means of the internet or similar means which is accessible only by the individual (and the person responsible for the storage area).
- (6) Copyright in a work is infringed if an individual transfers a personal copy of the work to another person (otherwise than on a private and temporary basis), except where the transfer is authorised by the copyright owner.
- (7) If copyright is infringed as set out in subsection (6), a personal copy which has been transferred is for all purposes subsequently treated as an infringing copy.
- (8) Copyright in a work is also infringed if an individual, having made a personal copy of the work, transfers the individual’s own copy of the work to another person (otherwise than on a private and temporary basis) and, after that transfer and without the licence of the copyright owner, retains any personal copy.
- (9) If copyright is infringed as set out in subsection (8), any retained personal copy is for all purposes subsequently treated as an infringing copy.
- (10) To the extent that a term of a contract purports to prevent or restrict the making of a copy which, by virtue of this section, would not infringe copyright, that term is unenforceable.]

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

### Textual Amendments

**F2** S. 28B inserted (1.10.2014) by [The Copyright and Rights in Performances \(Personal Copies for Private Use\) Regulations 2014 \(S.I. 2014/2361\)](#), regs. 1(1), **3(1)** (with reg. 5) (but note that the amending S.I. was quashed with prospective effect by the High Court in the case of *R (British Academy of Songwriters, Composers and Authors and others) v Secretary of State for Business, Innovation and Skills* [2015] EWHC 2041 (Admin), 17 July 2015)

## 29 Research and private study.

[<sup>F3</sup>(1) Fair dealing with a <sup>F4</sup>... work for the purposes of research for a non-commercial purpose does not infringe any copyright in the work provided that it is accompanied by a sufficient acknowledgement.]

[<sup>F5</sup>(1B) No acknowledgement is required in connection with fair dealing for the purposes mentioned in subsection (1) where this would be impossible for reasons of practicality or otherwise.

(1C) Fair dealing with a <sup>F6</sup>... work for the purposes of private study does not infringe any copyright in the work.]

<sup>F7</sup>(2) .....

(3) Copying by a person other than the researcher or student himself is not fair dealing if—

[<sup>F8</sup>(a) in the case of a librarian, or a person acting on behalf of a librarian, that person does anything which is not permitted under section 42A (copying by librarians: single copies of published works), or]

(b) in any other case, the person doing the copying knows or has reason to believe that it will result in copies of substantially the same material being provided to more than one person at substantially the same time and for substantially the same purpose.

<sup>F9</sup>[( 4 ) It is not fair dealing—

(a) to convert a computer program expressed in a low level language into a version expressed in a higher level language, or

(b) incidentally in the course of so converting the program, to copy it,

(these acts being permitted if done in accordance with section 50B (decompilation)).]

[<sup>F10</sup>(4A) It is not fair dealing to observe, study or test the functioning of a computer program in order to determine the ideas and principles which underlie any element of the program (these acts being permitted if done in accordance with section 50BA (observing, studying and testing)).]

[<sup>F11</sup>(4B) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.]

(5) <sup>F12</sup> .....

### Textual Amendments

**F3** S. 29(1) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. **9(a)**, (with regs 31-40)

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

- F4** Words in s. 29(1) omitted (1.6.2014) by virtue of [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **3(1)(a)**
- F5** S. 29(1B)(1C) substituted (31.10.2003) for s. 29(1A) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 9(b)** (with regs. 31-40)
- F6** Words in s. 29(1C) omitted (1.6.2014) by virtue of [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **3(1)(b)**
- F7** S. 29(2) omitted (1.6.2014) by virtue of [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **3(1)(c)**
- F8** S. 29(3)(a) substituted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **3(1)(d)**
- F9** S. 29(4) inserted (1.1.1993) by [S.I. 1992/3233](#), **reg. 7**
- F10** S. 29(4A) inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 9(d)** (with regs. 31-40)
- F11** S. 29(4B) inserted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **3(1)(e)**
- F12** S. 29(5) repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), regs. 2(2), **9(e)**, Sch. 2 (with regs. 31-40)

### **[<sup>F13</sup>29A Copies for text and data analysis for non-commercial research**

- (1) The making of a copy of a work by a person who has lawful access to the work does not infringe copyright in the work provided that—
  - (a) the copy is made in order that a person who has lawful access to the work may carry out a computational analysis of anything recorded in the work for the sole purpose of research for a non-commercial purpose, and
  - (b) the copy is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).
- (2) Where a copy of a work has been made under this section, copyright in the work is infringed if—
  - (a) the copy is transferred to any other person, except where the transfer is authorised by the copyright owner, or
  - (b) the copy is used for any purpose other than that mentioned in subsection (1) (a), except where the use is authorised by the copyright owner.
- (3) If a copy made under this section is subsequently dealt with—
  - (a) it is to be treated as an infringing copy for the purposes of that dealing, and
  - (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.
- (4) In subsection (3) “dealt with” means sold or let for hire, or offered or exposed for sale or hire.
- (5) To the extent that a term of a contract purports to prevent or restrict the making of a copy which, by virtue of this section, would not infringe copyright, that term is unenforceable.]

#### **Textual Amendments**

- F13** S. 29A inserted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **3(2)**

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### 30 Criticism, review<sup>[F14]</sup>, quotation] and news reporting.

- (1) Fair dealing with a work for the purpose of criticism or review, of that or another work or of a performance of a work, does not infringe any copyright in the work provided that it is accompanied by a sufficient acknowledgement <sup>[F15]</sup> (unless this would be impossible for reasons of practicality or otherwise)<sup>[F16]</sup> and provided that the work has been made available to the public].

<sup>[F17]</sup>(1ZA) Copyright in a work is not infringed by the use of a quotation from the work (whether for criticism or review or otherwise) provided that—

- (a) the work has been made available to the public,
- (b) the use of the quotation is fair dealing with the work,
- (c) the extent of the quotation is no more than is required by the specific purpose for which it is used, and
- (d) the quotation is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).]

<sup>[F18]</sup>(1A) For the purposes of <sup>[F19]</sup>subsections (1) and (1ZA)] a work has been made available to the public if it has been made available by any means, including—

- (a) the issue of copies to the public;
- (b) making the work available by means of an electronic retrieval system;
- (c) the rental or lending of copies of the work to the public;
- (d) the performance, exhibition, playing or showing of the work in public;
- (e) the communication to the public of the work,

but in determining generally for the purposes of <sup>[F20]</sup>those subsections] whether a work has been made available to the public no account shall be taken of any unauthorised act.]

- (2) Fair dealing with a work (other than a photograph) for the purpose of reporting current events does not infringe any copyright in the work provided that (subject to subsection (3)) it is accompanied by a sufficient acknowledgement.
- (3) No acknowledgement is required in connection with the reporting of current events by means of a sound recording, film <sup>[F21]</sup> or broadcast where this would be impossible for reasons of practicality or otherwise].

<sup>[F22]</sup>(4) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of subsection (1ZA), would not infringe copyright, that term is unenforceable.]

#### Textual Amendments

**F14** Word in s. 30 heading inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(2)**

**F15** Words in s. 30(1) inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(3)**

**F16** Words in s. 30(1) inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 10(1)(a)** (with regs. 31–40)

**F17** S. 30(1ZA) inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(4)**

**F18** S. 30(1A) inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 10(1)(b)** (with regs. 31–40)

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- F19** Words in s. 30(1A) substituted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(5)(a)**
- F20** Words in s. 30(1A) substituted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(5)(b)**
- F21** Words in s. 30(3) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 10(1)(c)** (with regs. 31-40)
- F22** S. 30(4) inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(6)**

### **[<sup>F23</sup>30A Caricature, parody or pastiche**

- (1) Fair dealing with a work for the purposes of caricature, parody or pastiche does not infringe copyright in the work.
- (2) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.]

#### **Textual Amendments**

- F23** S. 30A inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **5(1)**

### **31 Incidental inclusion of copyright material.**

- (1) Copyright in a work is not infringed by its incidental inclusion in an artistic work, sound recording, film [<sup>F24</sup>or broadcast].
- (2) Nor is the copyright infringed by the issue to the public of copies, or the playing, showing [<sup>F25</sup>or communication to the public], of anything whose making was, by virtue of subsection (1), not an infringement of the copyright.
- (3) A musical work, words spoken or sung with music, or so much of a sound recording [<sup>F24</sup>or broadcast] as includes a musical work or such words, shall not be regarded as incidentally included in another work if it is deliberately included.

#### **Textual Amendments**

- F24** Words in s. 31(1)(3) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 2(1), Sch. 1 para. 3(1)(d)(e)** (with regs. 31-40)
- F25** Words in s. 31(2) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(31.10.2003\)](#), **reg. 2(1), {Sch. 1 para. 6(2)(b)}** (with reg. 31-40)

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: General.