

These Regulations supersede S.I.1989/1009 published on 26th June 1989 (as amended by S.I. 1989/1069 published on 4th July 1989) and are being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

1989 No. 1212

COPYRIGHT

The Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989

<i>Made</i>	- - - -	<i>14th July 1989</i>
<i>Laid before Parliament</i>		<i>18th July 1989</i>
<i>Coming into force</i>	- -	<i>1st August 1989</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 37(1), (2) and (4) and 38 to 43 of the Copyright, Designs and Patents Act 1988⁽¹⁾, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989 and shall come into force on 1st August 1989.

Interpretation

2. In these Regulations –

“the Act” means the Copyright, Designs and Patents Act 1988;

“the archivist” means the archivist of a prescribed archive;

“the librarian” means the librarian of a prescribed library;

“prescribed archive” means an archive of the descriptions specified in paragraph (4) of regulation 3 below;

“prescribed library” means a library of the descriptions specified in paragraphs (1), (2) and (3) of regulation 3 below.

Descriptions of libraries and archives

3.—(1) The descriptions of libraries specified in Part A of Schedule 1 to these Regulations are prescribed for the purposes of section 38 and 39 of the Act:

Provided that any library conducted for profit shall not be a prescribed library for the purposes of those sections.

(2) All libraries in the United Kingdom are prescribed for the purposes of sections 41, 42 and 43 of the Act as libraries the librarians of which may make and supply copies of any material to which those sections relate.

(3) Any library of a description specified in Part A of Schedule 1 to these Regulations which is not conducted for profit and any library of the description specified in Part B of that Schedule which is not conducted for profit are prescribed for the purposes of sections 41 and 42 of the Act as libraries for which copies of any material to which those sections relate may be made and supplied by the librarian of a prescribed library.

(4) All archives in the United Kingdom are prescribed for the purposes of sections 42 and 43 of the Act as archives which may make and supply copies of any material to which those sections relate and any archive within the United Kingdom which is not conducted for profit is prescribed for the purposes of section 42 of the Act as an archive for which copies of any material to which that section relates may be made and supplied by the archivist of a prescribed archive.

(5) In this regulation “conducted for profit”, in relation to a library or archive, means a library or archive which is established or conducted for profit or which forms part of, or is administered by, a body established or conducted for profit.

Copying by librarian of article or part of published work

4.—(1) For the purposes of sections 38 and 39 of the Act the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with when the librarian of a prescribed library makes and supplies a copy of any article in a periodical or, as the case may be, of a part of a literary, dramatic or musical work from a published edition to a person requiring the copy.

(2) The prescribed conditions are –

- (a) that no copy of any article or any part of a work shall be supplied to the person requiring the same unless –
 - (i) he satisfies the librarian that he requires the copy for purposes of research or private study and will not use it for any other purpose; and
 - (ii) he has delivered to the librarian a declaration in writing, in relation to that article or part of a work, substantially in accordance with Form A in Schedule 2 to these Regulations and signed in the manner therein indicated;
- (b) that the librarian is satisfied that the requirement of such person and that of any other person –
 - (i) are not similar, that is to say, the requirements are not for copies of substantially the same article or part of a work at substantially the same time and for substantially the same purpose; and
 - (ii) are not related, that is to say, he and that person do not receive instruction to which the article or part of the work is relevant at the same time and place;
- (c) that such person is not furnished –
 - (i) in the case of an article, with more than one copy of the article or more than one article contained in the same issue of a periodical; or

- (ii) in the case of a part of a published work, with more than one copy of the same material or with a copy of more than a reasonable proportion of any work; and
 - (d) that such person is required to pay for the copy a sum not less than the cost (including a contribution to the general expenses of the library) attributable to its production.
- (3) Unless the librarian is aware that the signed declaration delivered to him pursuant to paragraph (2)(a)(ii) above is false in a material particular, he may rely on it as to the matter he is required to be satisfied on under paragraph (2)(a)(i) above before making or supplying the copy.

Copying by librarian to supply other libraries

5.—(1) For the purposes of section 41 of the Act the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with when the librarian of a prescribed library makes and supplies to another prescribed library a copy of any article in a periodical or, as the case may be, of the whole or part of a published edition of a literary, dramatic or musical work required by that other prescribed library.

- (2) The prescribed conditions are –
- (a) that the other prescribed library is not furnished with more than one copy of the article or of the whole or part of the published edition; or
 - (b) that, where the requirement is for a copy of more than one article in the same issue of a periodical, or for a copy of the whole or part of a published edition, the other prescribed library furnishes a written statement to the effect that it is a prescribed library and that it does not know, and could not by reasonable inquiry ascertain, the name and address of a person entitled to authorise the making of the copy; and
 - (c) that the other prescribed library shall be required to pay for the copy a sum not less than the cost (including a contribution to the general expenses of the library) attributable to its production.

Copying by librarian or archivist for the purposes of replacing items in a permanent collection

6.—(1) For the purposes of section 42 of the Act the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with before the librarian or, as the case may be, the archivist makes a copy from any item in the permanent collection of the library or archive in order to preserve or replace that item in the permanent collection of that library or archive or in the permanent collection of another prescribed library or archive.

- (2) The prescribed conditions are –
- (a) that the item in question is an item in the part of the permanent collection maintained by the library or archive wholly or mainly for the purposes of reference on the premises of the library or archive, or is an item in the permanent collection of the library or archive which is available on loan only to other libraries or archives;
 - (b) that it is not reasonably practicable for the librarian or archivist to purchase a copy of that item to fulfil the purpose under section 42(1)(a) or (b) of the Act;
 - (c) that the other prescribed library or archive furnishes a written statement to the effect that the item has been lost, destroyed or damaged and that it is not reasonably practicable for it to purchase a copy of that item, and that if a copy is supplied it will only be used to fulfil the purpose under section 42(1)(b) of the Act; and
 - (d) that the other prescribed library or archive shall be required to pay for the copy a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to its production.

Copying by librarian or archivist of certain unpublished works

7.—(1) For the purposes of section 43 of the Act the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with in the circumstances in which that section applies when the librarian or, as the case may be, the archivist makes and supplies a copy of the whole or part of a literary, dramatic or musical work from a document in the library or archive to a person requiring the copy.

(2) The prescribed conditions are –

- (a) that no copy of the whole or part of the work shall be supplied to the person requiring the same unless –
 - (i) he satisfies the librarian or archivist that he requires the copy for purposes of research or private study and will not use it for any other purpose; and
 - (ii) he has delivered to the librarian or, as the case may be, the archivist a declaration in writing, in relation to that work, substantially in accordance with Form B in Schedule 2 to these Regulations and signed in the manner therein indicated;
- (b) that such person is not furnished with more than one copy of the same material; and
- (c) that such person is required to pay for the copy a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to its production.

(3) Unless the librarian or archivist is aware that the signed declaration delivered to him pursuant to paragraph (2)(a)(ii) above is false in a material particular, he may rely on it as to the matter he is required to be satisfied on under paragraph (2)(a)(i) above before making or supplying the copy.

Revocations

8. The Regulations mentioned in Schedule 3 to these Regulations are hereby revoked.

14th July 1989

Eric Forth
Parliamentary Under Secretary of State,
Department of Trade and Industry

SCHEDULE 1

Regulation 3

Regulation 3(1) and (3)

PART A

1. Any library administered by –
 - (a) a library authority within the meaning of the Public Libraries and Museums Act 1964(2) in relation to England and Wales;
 - (b) a statutory library authority within the meaning of the Public Libraries (Scotland) Act 1955(3), in relation to Scotland;
 - (c) an Education and Library Board within the meaning of the Education and Libraries (Northern Ireland) Order 1986(4), in relation to Northern Ireland.
2. The British Library, the National Library of Wales, the National Library of Scotland, the Bodleian Library, Oxford and the University Library, Cambridge.
3. Any library of a school within the meaning of section 174 of the Act and any library of a description of educational establishment specified under that section in the Copyright (Educational Establishments) (No.2) Order 1989(5).
4. Any parliamentary library or library administered as part of a government department, including a Northern Ireland department, or any library conducted for or administered by an agency which is administered by a Minister of the Crown.
5. Any library administered by –
 - (a) in England and Wales, a local authority within the meaning of the Local Government Act 1972(6), the Common Council of the City of London or the Council of the Isles of Scilly;
 - (b) in Scotland, a local authority within the meaning of the Local Government (Scotland) Act 1973(7);
 - (c) in Northern Ireland, a district council established under the Local Government Act (Northern Ireland) 1972(8).
6. Any other library conducted for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, medicine, music, philosophy, religion, science (including natural and social science) or technology, or administered by any establishment or organisation which is conducted wholly or mainly for such a purpose.

Regulation 3(3)

PART B

Any library outside the United Kingdom which is conducted wholly or mainly for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, medicine, music, philosophy, religion, science (including natural and social science) or technology.

(2) 1964 c. 75.
(3) 1955 c. 27.
(4) S.I. 1986/594 (N.I. 3).
(5) S.I. 1989/1068.
(6) 1972 c. 70.
(7) 1973 c. 65.
(8) 1972 c. 9 (N.I.).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 2

Regulations 4 and 7

FORM ADECLARATION: COPY OF ARTICLE OR PART OF PUBLISHED WORK

To: The Librarian of Library
[Address of Library]

Please supply me with a copy of:
*the article in the periodical, the particulars of which are [.....]
^the part of the published work, the particulars of which are [.....]
required by me for the purposes of research or private study.

- 2. I declare that –
 - (a) I have not previously been supplied with a copy of the same material by you or any other librarian;
 - (b) I will not use the copy except for research or private study and will not supply a copy of it to any other person; and
 - (c) to the best of my knowledge no other person with whom I work or study has made or intends to make, at or about the same time as this request, a request for substantially the same material for substantially the same purpose.

3. I understand that if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

*Signature
Date

Name
Address
.....
.....

*Delete whichever is inappropriate.
†This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is NOT acceptable

FORM BDECLARATION: COPY OF WHOLE OR PART OF UNPUBLISHED WORK

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

To: The *Librarian/Archivist of *Library/Archive
{Address of Library/Archive}

Please supply me with a copy of:
the *whole/following part [particulars of part] of the [particulars of the unpublished work]
required by me for the purposes of research or private study.

2. I declare that –
- (a) I have not previously been supplied with a copy of the same material by you or any other librarian or archivist;
 - (b) I will not use the copy except for research or private study and will not supply a copy of it to any other person; and
 - (c) to the best of my knowledge the work had not been published before the document was deposited in your *library/archive and the copyright owner has not prohibited copying of the work.

3. I understand that if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

†Signature
Date

Name
Address
.....
.....

*Delete whichever is inappropriate.
†This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is NOT acceptable.

SCHEDULE 3

Regulation 8

REVOCATIONS

Number	Title
S.I. 1957/868	The Copyright (Libraries) Regulations 1957
S.I. 1989/1009	The Copyright (Copying by Librarians and Archivists) Regulations 1989
S.I. 1989/1069	The Copyright (Copying by Librarians and Archivists) (Amendment) Regulations 1989

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Copyright (Libraries) Regulations 1957, which were made under the Copyright Act 1956 (c. 74) (now repealed). These Regulations prescribe the descriptions of libraries and archives which may, subject to the prescribed conditions, make and supply copies of copyright works to persons for the purposes of research or private study or to other libraries or archives requiring copies of such works for reference purposes or to replace lost or damaged items in their permanent collection where it is not reasonably practicable to purchase the items. A person requesting copies of copyright works must deliver a signed declaration to the librarian or archivist to the effect that he requires them for research or private study and, in the case of a request for a copy of an article in a periodical or of a part of a published work, that his requirement for the same is not related to any similar requirement of another person.

Regulation 3 prescribes the descriptions of libraries and archives which may be supplied with copies of material by a prescribed library or archive.

These Regulations also revoke the Copyright (Copying by Librarians and Archivists) Regulations 1989 (S.I. 1989/1009, as amended by S.I. 1989/1069) (which were defective) before they came into force.