



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER III

ACTS PERMITTED IN RELATION TO COPYRIGHT WORKS

Libraries and archives

^{F1}37 **Libraries and archives: introductory.**

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Textual Amendments

F1 Ss. 37-40 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), reg. 1, **Sch. para. 14** Table

^{F1}38 **Copying by librarians: articles in periodicals.**

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Textual Amendments

F1 Ss. 37-40 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), reg. 1, **Sch. para. 14** Table

Status: Point in time view as at 30/06/2018.

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

^{F1}39 Copying by librarians: parts of published works.

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Textual Amendments

F1 Ss. 37-40 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), reg. 1, **Sch. para. 14** Table

^{F1}40 Restriction on production of multiple copies of the same material.

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Textual Amendments

F1 Ss. 37-40 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), reg. 1, **Sch. para. 14** Table

[^{F2}40A Lending of copies by libraries or archives.

[^{F3}(1) Copyright in a work of any description is not infringed by the following acts by a public library in relation to a book within the public lending right scheme—

- (a) lending the book;
- (b) in relation to an audio-book or e-book, copying or issuing a copy of the book as an act incidental to lending it.

[^{F4}(1ZA) Subsection (1) applies to an e-book or an e-audio-book only if—

- (a) the book has been lawfully acquired by the library, and
- (b) the lending is in compliance with any purchase or licensing terms to which the book is subject.]

(1A) In [^{F5}subsections (1) and (1ZA)] —

- (a) “book”, “audio-book” and “e-book” have the meanings given in section 5 of the Public Lending Right Act 1979,

[^{F6}(aa) “e-audio-book” means an audio-book (as defined in paragraph (a)) in a form enabling lending of the book by electronic transmission,]

- (b) “the public lending right scheme” means the scheme in force under section 1 of that Act,
- (c) a book is within the public lending right scheme if it is a book within the meaning of the provisions of the scheme relating to eligibility, whether or not it is in fact eligible, and
- (d) “lending” is to be read in accordance with the definition of “lent out” in section 5 of that Act (and section 18A of this Act does not apply).]

(2) Copyright in a work is not infringed by the lending of copies of the work by a ^{F7}...library or archive (other than a public library) which is not conducted for profit.]

Textual Amendments

F2 S. 40A inserted (1.12.1996) by [S.I. 1996/2967](#), **reg. 11(2)** (with Pt. III)

Status: Point in time view as at 30/06/2018.

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

- F3** S. 40A(1)(1A) substituted (30.6.2014) for s. 40A(1) by [Digital Economy Act 2010 \(c. 24\), ss. 43\(7\), 47\(3\)\(d\); S.I. 2014/1659, art. 2](#)
- F4** S. 40A(1ZA) inserted (30.6.2018 for E.W.S.) by [Digital Economy Act 2017 \(c. 30\), ss. 31\(3\), 118\(6\); S.I. 2018/690, reg. 2](#)
- F5** Words in s. 40A(1A) substituted (30.6.2018 for E.W.S.) by [Digital Economy Act 2017 \(c. 30\), ss. 31\(4\)\(a\), 118\(6\); S.I. 2018/690, reg. 2](#)
- F6** S. 40A(1A)(aa) inserted (30.6.2018 for E.W.S.) by [Digital Economy Act 2017 \(c. 30\), ss. 31\(4\)\(b\), 118\(6\); S.I. 2018/690, reg. 2](#)
- F7** Word in s. 40A(2) omitted (1.6.2014) by virtue of [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\), reg. 1, Sch. para. 3](#)

Modifications etc. (not altering text)

- C1** S. 40A(2) modified (1.12.1996) by [S.I. 1996/2967, reg. 35 \(with Pt. III\)](#)

[^{F8}40B Libraries and educational establishments etc : making works available through dedicated terminals

- (1) Copyright in a work is not infringed by an institution specified in subsection (2) communicating the work to the public or making it available to the public by means of a dedicated terminal on its premises, if the conditions in subsection (3) are met.
- (2) The institutions are—
- (a) a library,
 - (b) an archive,
 - (c) a museum, and
 - (d) an educational establishment.
- (3) The conditions are that the work or a copy of the work—
- (a) has been lawfully acquired by the institution,
 - (b) is communicated or made available to individual members of the public for the purposes of research or private study, and
 - (c) is communicated or made available in compliance with any purchase or licensing terms to which the work is subject.]

Textual Amendments

- F8** S. 40B inserted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\), regs. 1, 5\(1\)](#)

[^{F9}41 Copying by librarians: supply of single copies to other libraries

- (1) A librarian may, if the conditions in subsection (2) are met, make a single copy of the whole or part of a published work and supply it to another library, without infringing copyright in the work.
- (2) The conditions are—
- (a) the copy is supplied in response to a request from a library which is not conducted for profit, and
 - (b) at the time of making the copy the librarian does not know, or could not reasonably find out, the name and address of a person entitled to authorise the making of a copy of the work.

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- (3) The condition in subsection (2)(b) does not apply where the request is for a copy of an article in a periodical.
- (4) Where a library makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (5) 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

- F9** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

42 Copying by librarians etc : replacement copies of works

- (1) A librarian, archivist or curator of a library, archive or museum may, without infringing copyright, make a copy of an item in that institution’s permanent collection—
 - (a) in order to preserve or replace that item in that collection, or
 - (b) where an item in the permanent collection of another library, archive or museum has been lost, destroyed or damaged, in order to replace the item in the collection of that other library, archive or museum,
 provided that the conditions in subsections (2) and (3) are met.
- (2) The first condition is that the item is—
 - (a) included in the part of the collection kept wholly or mainly for the purposes of reference on the institution’s premises,
 - (b) included in a part of the collection not accessible to the public, or
 - (c) available on loan only to other libraries, archives or museums.
- (3) The second condition is that it is not reasonably practicable to purchase a copy of the item to achieve either of the purposes mentioned in subsection (1).
- (4) The reference in subsection (1)(b) to a library, archive or museum is to a library, archive or museum which is not conducted for profit.
- (5) Where an institution makes a charge for supplying a copy to another library, archive or museum under subsection (1)(b), the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (6) In this section “item” means a work or a copy of a work.
- (7) 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

- F9** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

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42A Copying by librarians: single copies of published works

- (1) A librarian of a library which is not conducted for profit may, if the conditions in subsection (2) are met, make and supply a single copy of—
 - (a) one article in any one issue of a periodical, or
 - (b) a reasonable proportion of any other published work,without infringing copyright in the work.
- (2) The conditions are—
 - (a) the copy is supplied in response to a request from a person who has provided the librarian with a declaration in writing which includes the information set out in subsection (3), and
 - (b) the librarian is not aware that the declaration is false in a material particular.
- (3) The information which must be included in the declaration is—
 - (a) the name of the person who requires the copy and the material which that person requires,
 - (b) a statement that the person has not previously been supplied with a copy of that material by any library,
 - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person, and
 - (d) a statement that to the best of the person's knowledge, no other person with whom the person works or studies has made, or intends to make, at or about the same time as the person's request, a request for substantially the same material for substantially the same purpose.
- (4) Where a library makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (5) Where a person ("P") makes a declaration under this section that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by P—
 - (a) P is liable for infringement of copyright as if P had made the copy, and
 - (b) the copy supplied to P is to be treated as an infringing copy for all purposes.
- (6) 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

- F9** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

43 Copying by librarians or archivists: single copies of unpublished works

- (1) A librarian or archivist may make and supply a single copy of the whole or part of a work without infringing copyright in the work, provided that—

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- (a) the copy is supplied in response to a request from a person who has provided the librarian or archivist with a declaration in writing which includes the information set out in subsection (2), and
 - (b) the librarian or archivist is not aware that the declaration is false in a material particular.
- (2) The information which must be included in the declaration is—
- (a) the name of the person who requires the copy and the material which that person requires,
 - (b) a statement that the person has not previously been supplied with a copy of that material by any library or archive, and
 - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.
- (3) But copyright is infringed if—
- (a) the work had been published or communicated to the public before the date it was deposited in the library or archive, or
 - (b) the copyright owner has prohibited the copying of the work,
- and at the time of making the copy the librarian or archivist is, or ought to be, aware of that fact.
- (4) Where a library or archive makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (5) Where a person (“P”) makes a declaration under this section that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by P—
- (a) P is liable for infringement of copyright as if P had made the copy, and
 - (b) the copy supplied to P is to be treated as an infringing copy for all purposes.

Textual Amendments

F9 Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

43A Sections 40A to 43: interpretation

- (1) The following definitions have effect for the purposes of sections 40A to 43.
- (2) “Library” means—
 - (a) a library which is publicly accessible, or
 - (b) a library of an educational establishment.
- (3) “Museum” includes a gallery.
- (4) “Conducted for profit”, in relation to a library, archive or museum, means a body of that kind which is established or conducted for profit or which forms part of, or is administered by, a body established or conducted for profit.

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- (5) References to a librarian, archivist or curator include a person acting on behalf of a librarian, archivist or curator.]

Textual Amendments

- F9** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

44 Copy of work required to be made as condition of export.

If an article of cultural or historical importance or interest cannot lawfully be exported from the United Kingdom unless a copy of it is made and deposited in an appropriate library or archive, it is not an infringement of copyright to make that copy.

[^{F10}44A Legal deposit libraries

- (1) Copyright is not infringed by the copying of a work from the internet by a deposit library or person acting on its behalf if—
 - (a) the work is of a description prescribed by regulations under section 10(5) of the 2003 Act,
 - (b) its publication on the internet, or a person publishing it there, is connected with the United Kingdom in a manner so prescribed, and
 - (c) the copying is done in accordance with any conditions so prescribed.
- (2) Copyright is not infringed by the doing of anything in relation to relevant material permitted to be done under regulations under section 7 of the 2003 Act.
- (3) The Secretary of State may by regulations make provision excluding, in relation to prescribed activities done in relation to relevant material, the application of such of the provisions of this Chapter as are prescribed.
- (4) Regulations under subsection (3) may in particular make provision prescribing activities—
 - (a) done for a prescribed purpose,
 - (b) done by prescribed descriptions of reader,
 - (c) done in relation to prescribed descriptions of relevant material,
 - (d) done other than in accordance with prescribed conditions.
- (5) Regulations under this section may make different provision for different purposes.
- (6) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
 - (a) “ the 2003 Act ” means the Legal Deposit Libraries Act 2003;
 - (b) “ deposit library ”, “ reader ” and “ relevant material ” have the same meaning as in section 7 of the 2003 Act;
 - (c) “ prescribed ” means prescribed by regulations made by the Secretary of State.

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Textual Amendments

F10 S. 44A inserted (1.2.2004) by [Legal Deposit Libraries Act 2003 \(c. 28\)](#), **ss. 8(1)**, 16(1) (with s. 16(4));
[S.I. 2004/130](#), **art. 2**

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