



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER IV

#### MORAL RIGHTS

##### *Right to be identified as author or director*

#### **77 Right to be identified as author or director.**

- (1) The author of a copyright literary, dramatic, musical or artistic work, and the director of a copyright film, has the right to be identified as the author or director of the work in the circumstances mentioned in this section; but the right is not infringed unless it has been asserted in accordance with section 78.
- (2) The author of a literary work (other than words intended to be sung or spoken with music) or a dramatic work has the right to be identified whenever—
  - (a) the work is published commercially, performed in public [<sup>F1</sup>or communicated to the public]; or
  - (b) copies of a film or sound recording including the work are issued to the public; and that right includes the right to be identified whenever any of those events occur in relation to an adaptation of the work as the author of the work from which the adaptation was made.
- (3) The author of a musical work, or a literary work consisting of words intended to be sung or spoken with music, has the right to be identified whenever—
  - (a) the work is published commercially;
  - (b) copies of a sound recording of the work are issued to the public; or

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- (c) a film of which the sound-track includes the work is shown in public or copies of such a film are issued to the public;
- and that right includes the right to be identified whenever any of those events occur in relation to an adaptation of the work as the author of the work from which the adaptation was made.
- (4) The author of an artistic work has the right to be identified whenever—
- (a) the work is published commercially or exhibited in public, or a visual image of it is [<sup>F2</sup>communicated to the public];
  - (b) a film including a visual image of the work is shown in public or copies of such a film are issued to the public; or
  - (c) in the case of a work of architecture in the form of a building or a model for a building, a sculpture or a work of artistic craftsmanship, copies of a graphic work representing it, or of a photograph of it, are issued to the public.
- (5) The author of a work of architecture in the form of a building also has the right to be identified on the building as constructed or, where more than one building is constructed to the design, on the first to be constructed.
- (6) The director of a film has the right to be identified whenever the film is shown in public [<sup>F1</sup>or communicated to the public] or copies of the film are issued to the public.
- (7) The right of the author or director under this section is—
- (a) in the case of commercial publication or the issue to the public of copies of a film or sound recording, to be identified in or on each copy or, if that is not appropriate, in some other manner likely to bring his identity to the notice of a person acquiring a copy,
  - (b) in the case of identification on a building, to be identified by appropriate means visible to persons entering or approaching the building, and
  - (c) in any other case, to be identified in a manner likely to bring his identity to the attention of a person seeing or hearing the performance, exhibition, showing [<sup>F3</sup>or communication to the public] in question;
- and the identification must in each case be clear and reasonably prominent.
- (8) If the author or director in asserting his right to be identified specifies a pseudonym, initials or some other particular form of identification, that form shall be used; otherwise any reasonable form of identification may be used.
- (9) This section has effect subject to section 79 (exceptions to right).

#### Textual Amendments

- F1** Words in s. 77(2)(a)(6) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), **Sch. 1 para. 8(1)(a)(b)** (with regs. 31-40)
- F2** Words in s. 77(4)(a) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), **Sch. 1 para. 8(2)(a)** (with regs. 31-40)
- F3** Words in s. 77(7)(c) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), **Sch. 1 para. 9(1)(b)** (with regs. 31-40)

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## **78 Requirement that right be asserted.**

- (1) A person does not infringe the right conferred by section 77 (right to be identified as author or director) by doing any of the acts mentioned in that section unless the right has been asserted in accordance with the following provisions so as to bind him in relation to that act.
- (2) The right may be asserted generally, or in relation to any specified act or description of acts—
  - (a) on an assignment of copyright in the work, by including in the instrument effecting the assignment a statement that the author or director asserts in relation to that work his right to be identified, or
  - (b) by instrument in writing signed by the author or director.
- (3) The right may also be asserted in relation to the public exhibition of an artistic work—
  - (a) by securing that when the author or other first owner of copyright parts with possession of the original, or of a copy made by him or under his direction or control, the author is identified on the original or copy, or on a frame, mount or other thing to which it is attached, or
  - (b) by including in a licence by which the author or other first owner of copyright authorises the making of copies of the work a statement signed by or on behalf of the person granting the licence that the author asserts his right to be identified in the event of the public exhibition of a copy made in pursuance of the licence.
- (4) The persons bound by an assertion of the right under subsection (2) or (3) are—
  - (a) in the case of an assertion under subsection (2)(a), the assignee and anyone claiming through him, whether or not he has notice of the assertion;
  - (b) in the case of an assertion under subsection (2)(b), anyone to whose notice the assertion is brought;
  - (c) in the case of an assertion under subsection (3)(a), anyone into whose hands that original or copy comes, whether or not the identification is still present or visible;
  - (d) in the case of an assertion under subsection (3)(b), the licensee and anyone into whose hands a copy made in pursuance of the licence comes, whether or not he has notice of the assertion.
- (5) In an action for infringement of the right the court shall, in considering remedies, take into account any delay in asserting the right.

## **79 Exceptions to right.**

- (1) The right conferred by section 77 (right to be identified as author or director) is subject to the following exceptions.
- (2) The right does not apply in relation to the following descriptions of work—
  - (a) a computer program;
  - (b) the design of a typeface;
  - (c) any computer-generated work.
- (3) The right does not apply to anything done by or with the authority of the copyright owner where copyright in the work originally [F4 vested in the author's or director's employer by virtue of section 11(2) (works produced in the course of employment).]

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- (4) The right is not infringed by an act which by virtue of any of the following provisions would not infringe copyright in the work—
- (a) section 30 (fair dealing for certain purposes), so far as it relates to the reporting of current events by means of a sound recording, film [<sup>F5</sup>or broadcast];
  - (b) section 31 (incidental inclusion of work in an artistic work, sound recording, film [<sup>F5</sup>or broadcast]);
  - (c) section 32(3) (examination questions);
  - (d) section 45 (parliamentary and judicial proceedings);
  - (e) section 46(1) or (2) (Royal Commissions and statutory inquiries);
  - (f) section 51 (use of design documents and models);
  - (g) section 52 (effect of exploitation of design derived from artistic work);
  - (h) [<sup>F6</sup>section 57 or 66A (acts permitted on assumptions as to expiry of copyright, &c.)];
- (5) The right does not apply in relation to any work made for the purpose of reporting current events.
- (6) The right does not apply in relation to the publication in—
- (a) a newspaper, magazine or similar periodical, or
  - (b) an encyclopaedia, dictionary, yearbook or other collective work of reference, of a literary, dramatic, musical or artistic work made for the purposes of such publication or made available with the consent of the author for the purposes of such publication.
- (7) The right does not apply in relation to—
- (a) a work in which Crown copyright or Parliamentary copyright subsists, or
  - (b) a work in which copyright originally vested in an international organisation by virtue of section 168,
- unless the author or director has previously been identified as such in or on published copies of the work.

#### Textual Amendments

- F4** Words in s. 79(3) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), **Sch. 1 para. 18(1)** (with regs. 31-40)
- F5** Words in s. 79(4)(a)(b) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), **Sch. 1 para. 3(1)(g)(h)** (with regs. 31-40)
- F6** Words in s. 79(4) substituted (1.1.1996) by [S.I. 1995/3297](#), **reg. 5(3)** (with Pt. III)

**Status:**

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