



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I **U.K.**

COPYRIGHT

CHAPTER VII **U.K.**

COPYRIGHT LICENSING

References and applications with respect to licensing by licensing bodies

[^{F1}124 Licences to which following sections apply. **U.K.**

Sections 125 to 128 (references and applications with respect to licensing by licensing bodies) apply to licences which are granted by a licensing body otherwise than in pursuance of a licensing scheme and cover works of more than one author, so far as they authorise—

- (a) copying the work,
- (b) rental or lending of copies of the work to the public,
- (c) performing, showing or playing the work in public, or
- [^{F2}(d) communicating the work to the public;]

and references in those sections to a licence shall be construed accordingly.]

Textual Amendments

F1 S. 124 substituted (1.12.1996) by [S.I. 1996/2967, reg. 15\(3\)](#) (with Pt. III)

F2 S. 124(d) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), [Sch. 1 para. 4\(4\)](#) (with regs. 31-40)

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: References and applications with respect to licensing by licensing bodies. (See end of Document for details)

125 Reference to tribunal of proposed licence. **U.K.**

- (1) The terms on which a licensing body proposes to grant a licence may be referred to the Copyright Tribunal by the prospective licensee.
- (2) The Tribunal shall first decide whether to entertain the reference, and may decline to do so on the ground that the reference is premature.
- (3) If the Tribunal decides to entertain the reference it shall consider the terms of the proposed licence and make such order, either confirming or varying the terms, as it may determine to be reasonable in the circumstances.
- (4) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

126 Reference to tribunal of expiring licence. **U.K.**

- (1) A licensee under a licence which is due to expire, by effluxion of time or as a result of notice given by the licensing body, may apply to the Copyright Tribunal on the ground that it is unreasonable in the circumstances that the licence should cease to be in force.
- (2) Such an application may not be made until the last three months before the licence is due to expire.
- (3) A licence in respect of which a reference has been made to the Tribunal shall remain in operation until proceedings on the reference are concluded.
- (4) If the Tribunal finds the application well-founded, it shall make an order declaring that the licensee shall continue to be entitled to the benefit of the licence on such terms as the Tribunal may determine to be reasonable in the circumstances.
- (5) An order of the Tribunal under this section may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

127 Application for review of order as to licence. **U.K.**

- (1) Where the Copyright Tribunal has made an order under [^{F3}section 125, 126 or 128B (where that order did not relate to a licensing scheme)], the licensing body or the person entitled to the benefit of the order may apply to the Tribunal to review its order.
- (2) An application shall not be made, except with the special leave of the Tribunal—
 - (a) within twelve months from the date of the order or of the decision on a previous application under this section, or
 - (b) if the order was made so as to be in force for 15 months or less, or as a result of the decision on a previous application under this section is due to expire within 15 months of that decision, until the last three months before the expiry date.
- (3) The Tribunal shall on an application for review confirm or vary its order as the Tribunal may determine to be reasonable in the circumstances.

Textual Amendments

F3 Words in s. 127(1) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 21\(5\)](#) (with [regs. 31-40](#))

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128 Effect of order of tribunal as to licence. **U.K.**

- (1) Where the Copyright Tribunal has made an order under section 125 or 126 and the order remains in force, the person entitled to the benefit of the order shall if he—
- (a) pays to the licensing body any charges payable in accordance with the order or, if the amount cannot be ascertained, gives an undertaking to pay the charges when ascertained, and
 - (b) complies with the other terms specified in the order,
- be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence granted by the owner of the copyright in question on the terms specified in the order.
- (2) The benefit of the order may be assigned—
- (a) in the case of an order under section 125, if assignment is not prohibited under the terms of the Tribunal’s order; and
 - (b) in the case of an order under section 126, if assignment was not prohibited under the terms of the original licence.
- (3) The Tribunal may direct that an order under section 125 or 126, or an order under section 127 varying such an order, so far as it varies the amount of charges payable, has effect from a date before that on which it is made, but not earlier than the date on which the reference or application was made or, if later, on which the licence was granted or, as the case may be, was due to expire.

If such a direction is made—

- (a) any necessary repayments, or further payments, shall be made in respect of charges already paid, and
- (b) the reference in subsection (1)(a) to the charges payable in accordance with the order shall be construed, where the order is varied by a later order, as a reference to the charges so payable by virtue of the later order.

[^{F4}128A Notification of licence or licensing scheme for excepted sound recordings **U.K.**

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Textual Amendments

- F4** Ss. 128A, 128B inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 21(3)** (with [regs. 31-40](#))
- F5** S. 128A omitted (1.1.2011) by virtue of [The Copyright, Designs and Patents Act 1988 \(Amendment\) Regulations 2010 \(S.I. 2010/2694\)](#), **art. 6**

128B References to the Tribunal by the Secretary of State under section 128A **U.K.**

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Textual Amendments

- F4** Ss. 128A, 128B inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 21(3)** (with [regs. 31-40](#))

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F6 S. 128B omitted (1.1.2011) by virtue of [The Copyright, Designs and Patents Act 1988 \(Amendment\) Regulations 2010 \(S.I. 2010/2694\)](#), [art. 6](#)

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