



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART VII

MISCELLANEOUS AND GENERAL

[^{F1}Circumvention of protection measures]

[^{F1}296Z] Rights and remedies in respect of devices and services designed to circumvent technological measures

- (1) This section applies where—
- (a) effective technological measures have been applied to a copyright work other than a computer program; and
 - (b) a person (C) manufactures, imports, distributes, sells or lets for hire, offers or exposes for sale or hire, advertises for sale or hire, or has in his possession for commercial purposes any device, product or component, or provides services which—
 - (i) are promoted, advertised or marketed for the purpose of the circumvention of, or
 - (ii) have only a limited commercially significant purpose or use other than to circumvent, or
 - (iii) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of,those measures.
- (2) The following persons have the same rights against C as a copyright owner has in respect of an infringement of copyright—
- (a) a person—
 - (i) issuing to the public copies of, or
 - (ii) communicating to the public,the work to which effective technological measures have been applied;

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 296ZD. (See end of Document for details)

- (b) the copyright owner or his exclusive licensee, if he is not the person specified in paragraph (a); and
 - (c) the owner or exclusive licensee of any intellectual property right in the effective technological measures applied to the work.
- (3) The rights conferred by subsection (2) are concurrent, and sections 101(3) and 102(1) to (4) apply, in proceedings under this section, in relation to persons with concurrent rights as they apply, in proceedings mentioned in those provisions, in relation to a copyright owner and exclusive licensee with concurrent rights.
- (4) Further, the persons in subsection (2) have the same rights under section 99 or 100 (delivery up or seizure of certain articles) in relation to any such device, product or component which a person has in his possession, custody or control with the intention that it should be used to circumvent effective technological measures, as a copyright owner has in relation to any infringing copy.
- (5) The rights conferred by subsection (4) are concurrent, and section 102(5) shall apply, as respects anything done under section 99 or 100 by virtue of subsection (4), in relation to persons with concurrent rights as it applies, as respects anything done under section 99 or 100, in relation to a copyright owner and exclusive licensee with concurrent rights.
- (6) The following provisions apply in relation to proceedings under this section as in relation to proceedings under Part 1 (copyright)—
- (a) sections 104 to 106 of this Act (presumptions as to certain matters relating to copyright); and
 - (b) section 72 of the [^{F2}Senior Courts Act 1981], section 15 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 and section 94A of the Judicature (Northern Ireland) Act 1978 (withdrawal of privilege against self-incrimination in certain proceedings relating to intellectual property);
- and section 114 of this Act applies, with the necessary modifications, in relation to the disposal of anything delivered up or seized by virtue of subsection (4).
- (7) In section 97(1) (innocent infringement of copyright) as it applies to proceedings for infringement of the rights conferred by this section, the reference to the defendant not knowing or having reason to believe that copyright subsisted in the work shall be construed as a reference to his not knowing or having reason to believe that his acts enabled or facilitated an infringement of copyright.
- (8) Subsections (1) to (5), (6)(b) and (7) and any other provision of this Act as it has effect for the purposes of those subsections apply, with any necessary adaptations, to rights in performances, publication right and database right.
- (9) The provisions of regulation 22 (presumptions relevant to database right) of the Copyright and Rights in Databases Regulations 1997 (SI 1997/3032) apply in proceedings brought by virtue of this section in relation to database right.]

Textual Amendments

- F1** Ss. 296-296ZF and cross-heading substituted (31.10.2003) for s. 296 and cross-heading by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 24(1)** (with [regs. 31-40](#))
- F2** S. 296ZD(6)(b): words wherever they occur in any enactment substituted (1.10.2009) by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2**

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