



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *Fraudulent reception of transmissions*

#### [<sup>F1</sup>297A Unauthorised decoders.

- (1) A person commits an offence if he—
  - (a) makes, imports, distributes, sells or lets for hire or offers or exposes for sale or hire any unauthorised decoder;
  - (b) has in his possession for commercial purposes any unauthorised decoder;
  - (c) instals, maintains or replaces for commercial purposes any unauthorised decoder; or
  - (d) advertises any unauthorised decoder for sale or hire or otherwise promotes any unauthorised decoder by means of commercial communications.
- (2) A person guilty of an offence under subsection (1) is liable—
  - [ on summary conviction, to imprisonment for a term not exceeding six months,
  - <sup>F2</sup>(a) or to a fine not exceeding the statutory maximum, or to both;]]
  - (b) on conviction on indictment, to imprisonment for a term not exceeding [<sup>F3</sup>ten] years, or to a fine, or to both.
- (3) It is a defence to any prosecution for an offence under this section for the defendant to prove that he did not know, and had no reasonable ground for believing, that the decoder was an unauthorised decoder.
- (4) In this section—

“apparatus” includes any device, component or electronic data (including software);

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*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 297A. (See end of Document for details)*

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“conditional access technology” means any technical measure or arrangement whereby access to encrypted transmissions in an intelligible form is made conditional on prior individual authorisation;

“decoder” means any apparatus which is designed or adapted to enable (whether on its own or with any other apparatus) an encrypted transmission to be decoded;

“encrypted” includes subjected to scrambling or the operation of cryptographic envelopes, electronic locks, passwords or any other analogous application;

“transmission” means—

(a) any programme included in a broadcasting<sup>F4</sup> . . . service which is provided from a place in the United Kingdom<sup>F5</sup> . . .; or

(b) an information society service (within the meaning of Directive 98/34/EC of the European Parliament and of the Council of 22nd June 1998<sup>F6</sup>, as amended by Directive 98/48/EC of the European Parliament and of the Council of 20th July 1998<sup>F7</sup>) which is provided from a place in the United Kingdom<sup>F5</sup> . . .; and

“unauthorised”, in relation to a decoder, means that the decoder is designed or adapted to enable an encrypted transmission, or any service of which it forms part, to be accessed in an intelligible form without payment of the fee (however imposed) which the person making the transmission, or on whose behalf it is made, charges for accessing the transmission or service (whether by the circumvention of any conditional access technology related to the transmission or service or by any other means).

#### Textual Amendments

- F1** S. 297A substituted (28.5.2000) by [S.I. 2000/1175, art. 2\(2\)](#)
- F2** S. 297A(2)(a) substituted (20.11.2002) by [2002 c. 25, s. 1\(4\)\(a\)\(5\)](#); [S.I. 2002/2749, art. 2](#)
- F3** Word in s. 297A(2)(b) substituted (20.11.2002) by [2002 c. 25, s. 1\(4\)\(b\)\(5\)](#); [S.I. 2002/2749, art. 2](#)
- F4** Words in s. 297A(4) repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\), reg. 2\(2\), Sch. 2](#) (with regs. 31-40)
- F5** Words in s. 297A(4) omitted (31.12.2020) by virtue of [The Broadcasting \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/224\), reg. 1\(2\), Sch. 1 para. 35\(2\)](#) (with reg. 6) (as amended by [S.I. 2020/1536, reg. 5\(2\)\(3\)](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F6** [O.J. L204, 21.7.98, p.37](#)
- F7** [O.J. L217, 5.8.98, p.18](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 297A.