



Copyright Act 1956

1956 CHAPTER 74 4 and 5 Eliz 2

PART I

COPYRIGHT IN ORIGINAL WORKS

1 Nature of copyright under this Act

- (1) In this Act “copyright” in relation to a work (except where the context otherwise requires) means the exclusive right, by virtue and subject to the provisions of this Act, to do, and to authorise other persons to do, certain acts in relation to that work in the United Kingdom or in any other country to which the relevant provision of this Act extends.

The said acts, in relation to a work of any description, are those acts which, in the relevant provision of this Act, are designated as the acts restricted by the copyright in a work of that description.

- (2) In accordance with the preceding subsection, but subject to the following provisions of this Act, the copyright in a work is infringed by any person who, not being the owner of the copyright, and without the licence of the owner thereof, does, or authorises another person to do, any of the said acts in relation to the work in the United Kingdom or in any other country to which the relevant provision of this Act extends.
- (3) In the preceding subsections references to the relevant provision of this Act, in relation to a work of any description, are references to the provision of this Act whereby it is provided that (subject to compliance with the conditions specified therein) copyright shall subsist in works of that description.
- (4) The preceding provisions of this section shall apply, in relation to any subject-matter (other than a work) of a description to which any provision of Part II of this Act relates, as they apply in relation to a work.
- (5) For the purposes of any provision of this Act which specifies the conditions under which copyright may subsist in any description of work or other subject-matter, “qualified person” —

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- (a) in the case of an individual, means a person who is a British subject or British protected person or a citizen of the Republic of Ireland or (not being a British subject or British protected person or a citizen of the Republic of Ireland) is domiciled or resident in the United Kingdom or in another country to which that provision extends, and
- (b) in the case of a body corporate, means a body incorporated under the laws of any part of the United Kingdom or of another country to which that provision extends.

In this subsection “British protected person ” has the same meaning as in the British Nationality Act, 1948.

2 Copyright in literary, dramatic and musical works

- (1) Copyright shall subsist, subject to the provisions of this Act, in every original literary, dramatic or musical work which is unpublished, and of which the author was a qualified person at the time when the work was made, or, if the making of the work extended over a period, was a qualified person for a substantial part of that period.
- (2) Where an original literary, dramatic or musical work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) if, but only if,—
 - (a) the first publication of the work took place in the United Kingdom, or in another country to which this section extends, or
 - (b) the author of the work was a qualified person at the time when the work was first published, or
 - (c) the author had died before that time, but was a qualified person immediately before his death.
- (3) Subject to the last preceding subsection, copyright subsisting in a work by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the author died, and shall then expire:

Provided that if before the death of the author none of the following acts had been done, that is to say,—

 - (a) the publication of the work,
 - (b) the performance of the work in public,
 - (c) the offer for sale to the public of records of the work, and
 - (d) the broadcasting of the work,

the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year which includes the earliest occasion on which one of those acts is done.
- (4) In the last preceding subsection references to the doing of any act in relation to a work include references to the doing of that act in relation to an adaptation of the work.
- (5) The acts restricted by the copyright in a literary, dramatic or musical work are—
 - (a) reproducing the work in any material form ;
 - (b) publishing the work;
 - (c) performing the work in public ;
 - (d) broadcasting the work ;

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- (e) causing the work to be transmitted to subscribers to a diffusion service;
 - (f) making any adaptation of the work;
 - (g) doing, in relation to an adaptation of the work, any of the acts specified in relation to the work in paragraphs (a) to (e) of this subsection.
- (6) In this Act “adaptation ”—
- (a) in relation to a literary or dramatic work, means any of the following, that is to say,—
 - (i) in the case of a non-dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a dramatic work;
 - (ii) in the case of a dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a non-dramatic work;
 - (iii) a translation of the work ;
 - (iv) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and
 - (b) in relation to a musical work, means an arrangement or transcription of the work,
- so however that the mention of any matter in this definition shall not affect the generality of paragraph (a) of the last preceding subsection.

3 Copyright in artistic works

- (1) In this Act “artistic work ” means a work of any of the following descriptions, that is to say,—
- (a) the following, irrespective of artistic quality, namely paintings, sculptures, drawings, engravings and photographs;
 - (b) works of architecture, being either buildings or models for buildings;
 - (c) works of artistic craftsmanship, not falling within either of the preceding paragraphs.
- (2) Copyright shall subsist, subject to the provisions of this Act, in every original artistic work which is unpublished, and of which the author was a qualified person at the time when the work was made, or, if the making of the work extended over a period, was a qualified person for a substantial part of that period.
- (3) Where an original artistic work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) if, but only if,—
- (a) the first publication of the work took place in the United Kingdom, or in another country to which this section extends, or
 - (b) the author of the work was a qualified person at the time when the work was first published, or
 - (c) the author had died before that time, but was a qualified person immediately before his death.
- (4) Subject to the last preceding subsection, copyright subsisting in a work by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the author died, and shall then expire:

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Provided that—

- (a) in the case of an engraving, if before the death of the author the engraving had not been published, the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which it is first published;
 - (b) the copyright in a photograph shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the photograph is first published, and shall then expire.
- (5) The acts restricted by the copyright in an artistic work are—
- (a) reproducing the work in any material form ;
 - (b) publishing the work ;
 - (c) including the work in a television broadcast;
 - (d) causing a television programme which includes the work to be transmitted to subscribers to a diffusion service.

4 Ownership of copyright in literary, dramatic, musical and artistic works

- (1) Subject to the provisions of this section, the author of a work shall be entitled to any copyright subsisting in the work by virtue of this Part of this Act.
- (2) Where a literary, dramatic or artistic work is made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, and is so made for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall be entitled to the copyright in the work in so far as the copyright relates to publication of the work in any newspaper, magazine or similar periodical, or to reproduction of the work for the purpose of its being so published; but in all other respects the author shall be entitled to any copyright subsisting in the work by virtue of this Part of this Act.
- (3) Subject to the last preceding subsection, where a person commissions the taking of a photograph, or the painting or drawing of a portrait, or the making of an engraving, and pays or agrees to pay for it in money or money's worth, and the work is made in pursuance of that commission, the person who so commissioned the work shall be entitled to any copyright subsisting therein by virtue of this Part of this Act.
- (4) Where, in a case not falling within either of the two last preceding subsections, a work is made in the course of the author's employment by another person under a contract of service or apprenticeship, that other person shall be entitled to any copyright subsisting in the work by virtue of this Part of this Act.
- (5) Each of the three last preceding subsections shall have effect subject, in any particular case, to any agreement excluding the operation thereof in that case.
- (6) The preceding provisions of this section shall all have effect subject to the provisions of Part VI of this Act.

5 Infringements by importation, sale and other dealings

- (1) Without prejudice to the general provisions of section one of this Act as to infringements of copyright, the provisions of this section shall have effect in relation to copyright subsisting by virtue of this Part of this Act.

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- (2) The copyright in a literary, dramatic, musical or artistic work is infringed by any person who, without the licence of the owner of the copyright, imports an article (otherwise than for his private and domestic use) into the United Kingdom, or into any other country to which this section extends, if to his knowledge the making of that article constituted an infringement of that copyright, or would have constituted such an infringement if the article had been made in the place into which it is so imported.
- (3) The copyright in a literary, dramatic, musical or artistic work is infringed by any person who, in the United Kingdom, or in any other country to which this section extends, and without the licence of the owner of the copyright,—
- (a) sells, lets for hire, or by way of trade offers or exposes for sale or hire any article, or
 - (b) by way of trade exhibits any article in public,
- if to his knowledge the making of the article constituted an infringement of that copyright, or (in the case of an imported article) would have constituted an infringement of that copyright if the article had been made in the place into which it was imported.
- (4) The last preceding subsection shall apply in relation to the distribution of any articles either—
- (a) for purposes of trade, or
 - (b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright in question,
- as it applies in relation to the sale of an article.
- (5) The copyright in a literary, dramatic or musical work is also infringed by any person who permits a place of public entertainment to be used for a performance in public of the work, where the performance constitutes an infringement of the copyright in the work:
- Provided that this subsection shall not apply in a case where the person permitting the place to be so used—
- (a) was not aware, and had no reasonable grounds for suspecting, that the performance would be an infringement of the copyright, or
 - (b) gave the permission gratuitously, or for a consideration which was only nominal or (if more than nominal) did not exceed a reasonable estimate of the expenses to be incurred by him in consequence of the use of the place for the performance.
- (6) In this section “place of public entertainment” includes any premises which are occupied mainly for other purposes, but are from time to time made available for hire to such persons as may desire to hire them for purposes of public entertainment.

6 General exceptions from protection of literary, dramatic and musical works

- (1) No fair dealing with a literary, dramatic or musical work for purposes of research or private study shall constitute an infringement of the copyright in the work.
- (2) No fair dealing with a literary, dramatic or musical work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work, and is accompanied by a sufficient acknowledgment.

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- (3) No fair dealing with a literary, dramatic or musical work shall constitute an infringement of the copyright in the work if it is for the purpose of reporting current events—
- (a) in a newspaper, magazine or similar periodical, or
 - (b) by means of broadcasting, or in a cinematograph film,
- and, in a case falling within paragraph (a) of this subsection, is accompanied by a sufficient acknowledgment.
- (4) The copyright in a literary, dramatic or musical work is not infringed by reproducing it for the purposes of a judicial proceeding, or for the purposes of a report of a judicial proceeding.
- (5) The reading or recitation in public by one person of any reasonable extract from a published literary or dramatic work, if accompanied by a sufficient acknowledgment, shall not constitute an infringement of the copyright in the work:

Provided that this subsection shall not apply to anything done for the purposes of broadcasting.

- (6) The copyright in a published literary or dramatic work is not infringed by the inclusion of a short passage therefrom in a collection intended for the use of schools, if—
- (a) the collection is described in its title, and in any advertisements thereof issued by or on behalf of the publisher, as being so intended, and
 - (b) the work in question was not published for the use of schools, and
 - (c) the collection consists mainly of material in which no copyright subsists, and
 - (d) the inclusion of the passage is accompanied by a sufficient acknowledgment:

Provided that this subsection shall not apply in relation to the copyright in a work if, in addition to the passage in question, two or more other excerpts from works by the author thereof (being works in which copyright subsists at the time when the collection is published) are contained in that collection, or are contained in that collection taken together with every similar collection (if any) published by the same publisher within the period of five years immediately preceding the publication of that collection.

- (7) Where by virtue of an assignment or licence a person is authorised to broadcast a literary, dramatic or musical work from a place in the United Kingdom, or in another country to which section two of this Act extends, but (apart from this subsection) would not be entitled to make reproductions of it in the form of a record or of a cinematograph film, the copyright in the work is not infringed by his making such a reproduction of the work solely for the purpose of broadcasting the work:

Provided that this subsection shall not apply if—

- (a) the reproduction is used for making any further reproduction therefrom, or for any other purpose except that of broadcasting in accordance with the assignment or licence, or
- (b) the reproduction is not destroyed before the end of the period of twenty-eight days beginning with the day on which it is first used for broadcasting the work in pursuance of the assignment or licence, or such extended period (if any) as may be agreed between the person who made the reproduction and the person who (in relation to the making of reproductions of the description in question) is the owner of the copyright.

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- (8) The preceding provisions of this section shall apply to the doing of any act in relation to an adaptation of a work as they apply in relation to the doing of that act in relation to the work itself.
- (9) The provisions of this section shall apply where a work, or adaptation of a work, is caused to be transmitted to subscribers to a diffusion service as they apply where a work or adaptation is broadcast.
- (10) In this Act “sufficient acknowledgment” means an acknowledgment identifying the work in question by its title or other description and, unless the work is anonymous or the author has previously agreed or required that no acknowledgment of his name should be made, also identifying the author.

7 Special exceptions as respects libraries and archives

- (1) The copyright in an article contained in a periodical publication is not infringed by the making or supplying of a copy of the article, if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Board of Trade, and the conditions prescribed by those regulations are complied with.
- (2) In making any regulations for the purposes of the preceding subsection the Board of Trade shall make such provision as the Board may consider appropriate for securing—
 - (a) that the libraries to which the regulations apply are not established or conducted for profit;
 - (b) that the copies in question are supplied only to persons satisfying the librarian, or a person acting on his behalf, that they require them for purposes of research or private study and will not use them for any other purpose;
 - (c) that no person is furnished under the regulations with two or more copies of the same article;
 - (d) that no copy extends to more than one article contained in any one publication; and
 - (e) that persons to whom copies are supplied under the regulations are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production,and may impose such other requirements (if any) as may appear to the Board to be expedient.
- (3) The copyright in a published literary, dramatic or musical work, other than an article contained in a periodical publication, is not infringed by the making or supplying of a copy of part of the work, if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Board of Trade, and the conditions prescribed by those regulations are complied with:

Provided that this subsection shall not apply if, at the time when the copy is made, the librarian knows the name and address of a person entitled to authorise the making of the copy, or could by reasonable inquiry ascertain the name and address of such a person.
- (4) The provisions of subsection (2) of this section shall apply for the purposes of the last preceding subsection:

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Provided that paragraph (d) of the said subsection (2) shall not apply for those purposes, but any regulations made under the last preceding subsection shall include such provision as the Board of Trade may consider appropriate for securing that no copy to which the regulations apply extends to more than a reasonable proportion of the work in question.

- (5) The copyright in a published literary, dramatic or musical work is not infringed by the making or supplying of a copy of the work, or of part of it, by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Board of Trade, if—
- (a) the copy is supplied to the librarian of any library of a class so prescribed;
 - (b) at the time when the copy is made, the librarian by or on whose behalf it is supplied does not know the name and address of any person entitled to authorise the making of the copy, and could not by reasonable inquiry ascertain the name and address of such a person; and
 - (c) any other conditions prescribed by the regulations are complied with:

Provided that the condition specified in paragraph (b) of this subsection shall not apply in the case of an article contained in a periodical publication.

- (6) Where, at a time more than fifty years from the end of the calendar year in which the author of a literary, dramatic or musical work died, and more than one hundred years after the time, or the end of the period, at or during which the work was made,—
- (a) copyright subsists in the work, but
 - (b) the work has not been published, and
 - (c) the manuscript or a copy of the work is kept in a library, museum or other institution where (subject to any provisions regulating the institution in question) it is open to public inspection,

the copyright in the work is not infringed by a person who reproduces the work for purposes of research or private study, or with a view to publication.

- (7) Where a published literary, dramatic or musical work (in this subsection referred to as “the new work”) incorporates the whole or part of a work (in this subsection referred to as “the old work”) in the case of which the circumstances specified in the last preceding subsection existed immediately before the new work was published, and—
- (a) before the new work was published, such notice of the intended publication as may be prescribed by regulations made under this subsection by the Board of Trade had been given, and
 - (b) immediately before the new work was published, the identity of the owner of the copyright in the old work was not known to the publisher of the new work,

then for the purposes of this Act—

- (i) that publication of the new work, and
- (ii) any subsequent publication of the new work, either in the same or in an altered form,

shall, in so far as it constitutes a publication of the old work, not be treated as an infringement of the copyright in the old work or as an unauthorised publication of the old work:

Provided that this subsection shall not apply to a subsequent publication incorporating a part of the old work which was not included in the new work as originally published, unless (apart from this subsection) the circumstances specified in the last preceding

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subsection, and in paragraphs (a) and (b) of this subsection, existed immediately before that subsequent publication.

- (8) In so far as the publication of a work, or of part of a work, is, by virtue of the last preceding subsection, not to be treated as an infringement of the copyright in the work, a person who subsequently broadcasts the work, or that part thereof, as the case may be, or causes it to be transmitted to subscribers to a diffusion service, or performs it in public, or makes a record of it, does not thereby infringe the copyright in the work.
- (9) In relation to an article or other work which is accompanied by one or more artistic works provided for explaining or illustrating it (in this subsection referred to as “illustrations”), the preceding provisions of this section shall apply as if—
- (a) wherever they provide that the copyright in the article or work is not infringed, the reference to that copyright included a reference to any copyright in any of the illustrations;
 - (b) in subsections (1) and (2), references to a copy of the article included references to a copy of the article together with a copy of the illustrations or any of them ;
 - (c) in subsections (3) to (5), references to a copy of the work included references to a copy of the work together with a copy of the illustrations or any of them, and references to a copy of part of the work included references to a copy of that part of the work together with a copy of any of the illustrations which were provided for explaining or illustrating that part; and
 - (d) in subsections (6) and (7), references to the doing of any act in relation to the work included references to the doing of that act in relation to the work together with any of the illustrations.
- (10) In this section “article” includes an item of any description.

8 Special exception in respect of records of musical works

- (1) The copyright in a musical work is not infringed by a person (in this section referred to as “the manufacturer”) who makes a record of the work or of an adaptation thereof in the United Kingdom, if—
- (a) records of the work, or, as the case may be, of a similar adaptation of the work, have previously been made in, or imported into, the United Kingdom for the purposes of retail sale, and were so made or imported by, or with the licence of, the owner of the copyright in the work;
 - (b) before making the record, the manufacturer gave to the owner of the copyright the prescribed notice of his intention to make it;
 - (c) the manufacturer intends to sell the record by retail, or to supply it for the purpose of its being sold by retail by another person, or intends to use it for making other records which are to be so sold or supplied; and
 - (d) in the case of a record which is sold by retail, the manufacturer pays to the owner of the copyright, in the prescribed manner and at the prescribed time, a royalty of an amount ascertained in accordance with the following provisions of this section.
- (2) Subject to the following provisions of this section, the royalty mentioned in paragraph (d) of the preceding subsection shall be of an amount equal to six and one-quarter per cent. of the ordinary retail selling price of the record, calculated in the prescribed manner:

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Provided that, if the amount so calculated includes a fraction of a farthing, that fraction shall be reckoned as one farthing, and if, apart from this proviso, the amount of the royalty would be less than three-farthings, the amount thereof shall be three-farthings.

- (3) If, at any time after the end of the period of one year beginning with the coming into operation of this section, it appears to the Board of Trade that the ordinary rate of royalty, or the minimum amount thereof, in accordance with the provisions of the last preceding subsection, or in accordance with those provisions as last varied by an order under this subsection, has ceased to be equitable, either generally or in relation to any class of records, the Board may hold a public inquiry in the prescribed manner; and if, in consequence of such an inquiry, the Board are satisfied of the need to do so, the Board may make an order prescribing such different rate or amount, either generally or in relation to any one or more classes of records, as the Board may consider just:

Provided that—

- (a) no order shall be made under this subsection unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament; and
 - (b) where an order comprising a class of records (that is to say, either a general order or an order relating specifically to that class, or to that class together with one or more other classes of records) has been made under this subsection, no further order comprising that class of records shall be made thereunder less than five years after the date on which the previous order comprising that class (or, if more than one, the last previous order comprising that class) was made thereunder.
- (4) In the case of a record which comprises (with or without other material, and either in their original form or in the form of adaptations) two or more musical works in which copyright subsists—
- (a) the minimum royalty shall be three-farthings in respect of each of those works, or, if a higher or lower amount is prescribed by an order under the last preceding subsection as the minimum royalty, shall be that amount in respect of each of those works ; and
 - (b) if the owners of the copyright in the works are different persons, the royalty shall be apportioned among them in such manner as they may agree or as, in default of agreement, may be determined by arbitration.
- (5) Where a record comprises (with or without other material) a performance of a musical work, or of an adaptation of a musical work, in which words are sung, or are spoken incidentally to or in association with the music, and either no copyright subsists in that work or, if such copyright subsists, the conditions specified in subsection (1) of this section are fulfilled in relation to that copyright, then if—
- (a) the words consist or form part of a literary or dramatic work in which copyright subsists, and
 - (b) such previous records as are referred to in paragraph (a) of subsection (1) of this section were made or imported by, or with the licence of, the owner of the copyright in that literary or dramatic work, and
 - (c) the conditions specified in paragraphs (b) and (d) of subsection (1) of this section are fulfilled in relation to the owner of that copyright,

the making of the record shall not constitute an infringement of the copyright in the literary or dramatic work:

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Provided that this subsection shall not be construed as requiring more than one royalty to be paid in respect of a record; and if copyright subsists both in the musical work and in the literary or dramatic work, and their owners are different persons, the royalty shall be apportioned among them (or among them and any other person entitled to a share thereof in accordance with the last preceding subsection) as they may agree or as, in default of agreement, may be determined by arbitration.

- (6) For the purposes of this section an adaptation of a work shall be taken to be similar to an adaptation thereof contained in previous records if the two adaptations do not substantially differ in their treatment of the work, either in respect of style or (apart from any difference in numbers) in respect of the performers required for performing them.
- (7) Where, for the purposes of paragraph (a) of subsection (1) of this section, the manufacturer requires to know whether such previous records as are mentioned in that paragraph were made or imported as therein mentioned, the manufacturer may make the prescribed inquiries; and if the owner of the copyright fails to reply to those inquiries within the prescribed period, the previous records shall be taken to have been made or imported, as the case may be, with the licence of the owner of the copyright.
- (8) The preceding provisions of this section shall apply in relation to records of part of a work or adaptation as they apply in relation to records of the whole of it:

Provided that subsection (1) of this section—

- (a) shall not apply to a record of the whole of a work or adaptation unless the previous records referred to in paragraph (a) of that subsection were records of the whole of the work or of a similar adaptation, and
 - (b) shall not apply to a record of part of a work or adaptation unless those previous records were records of, or comprising, that part of the work or of a similar adaptation.
- (9) In relation to musical works published before the first day of July, nineteen hundred and twelve, the preceding provisions of this section shall apply as if paragraph (a) of subsection (1), paragraph (b) of subsection (5), subsections (6) and (7), and the proviso to the last preceding subsection, were omitted:

Provided that this subsection shall not extend the operation of subsection (5) of this section to a record in respect of which the condition specified in paragraph (b) of that subsection is not fulfilled, unless the words comprised in the record (as well as the musical work) were published before the first day of July, nineteen hundred and twelve, and were so published as words to be sung to, or spoken incidentally to or in association with, the music.

- (10) Nothing in this section shall be construed as authorising the importation of records which could not lawfully be imported apart from this section; and accordingly, for the purposes of any provision of this Act relating to imported articles, where the question arises whether the making of a record made outside the United Kingdom would have constituted an infringement of copyright if the record had been made in the United Kingdom, that question shall be determined as if subsection (1) of this section had not been enacted.
- (11) In this section “prescribed” means prescribed by regulations made under this section by the Board of Trade; and any such regulations made for the purposes of paragraph (d) of subsection (1) of this section may provide that the taking of such steps as may be

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specified in the regulations (being such steps as the Board consider most convenient for ensuring the receipt of the royalties by the owner of the copyright) shall be treated as constituting payment of the royalties in accordance with that paragraph.

9 General exceptions from protection of artistic works

- (1) No fair dealing with an artistic work for purposes of research or private study shall constitute an infringement of the copyright in the work.
- (2) No fair dealing with an artistic work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work, and is accompanied by a sufficient acknowledgment.
- (3) The copyright in a work to which this subsection applies which is permanently situated in a public place, or in premises open to the public, is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a cinematograph film or in a television broadcast.

This subsection applies to sculptures, and to such works of artistic craftsmanship as are mentioned in paragraph (c) of subsection (1) of section three of this Act.

- (4) The copyright in a work of architecture is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a cinematograph film or in a television broadcast.
- (5) Without prejudice to the two last preceding subsections, the copyright in an artistic work is not infringed by the inclusion of the work in a cinematograph film or in a television broadcast, if its inclusion therein is only by way of background or is otherwise only incidental to the principal matters represented in the film or broadcast.
- (6) The copyright in an artistic work is not infringed by the publication of a painting, drawing, engraving, photograph or cinematograph film, if by virtue of any of the three last preceding subsections the making of that painting, drawing, engraving, photograph or film did not constitute an infringement of the copyright.
- (7) The copyright in an artistic work is not infringed by reproducing it for the purposes of a judicial proceeding or for the purposes of a report of a judicial proceeding.
- (8) The making of an object of any description which is in three dimensions shall not be taken to infringe the copyright in an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work.
- (9) The copyright in an artistic work is not infringed by the making of a subsequent artistic work by the same author, notwithstanding that part of the earlier work—
 - (a) is reproduced in the subsequent work, and
 - (b) is so reproduced by the use of a mould, cast, sketch, plan, model or study made for the purposes of the earlier work,
 if in making the subsequent work the author does not repeat or imitate the main design of the earlier work.
- (10) Where copyright subsists in a building as a work of architecture, the copyright is not infringed by any reconstruction of that building; and where a building has been constructed in accordance with architectural drawings or plans in which copyright subsists, and has been so constructed by, or with the licence of, the owner of

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that copyright, any subsequent reconstruction of the building by reference to those drawings or plans shall not constitute an infringement of that copyright.

- (11) The provisions of this section shall apply in relation to a television programme which is caused to be transmitted to subscribers to a diffusion service as they apply in relation to a television broadcast.

10 Special exception in respect of industrial designs

- (1) Where copyright subsists in an artistic work, and a corresponding design is registered under the Registered Designs Act, 1949 (in this section referred to as “the Act of 1949”), it shall not be an infringement of the copyright in the work—
- (a) to do anything, during the subsistence of the copyright in the registered design under the Act of 1949, which is within the scope of the copyright in the design, or
 - (b) to do anything, after the copyright in the registered design has come to an end, which, if it had been done while the copyright in the design subsisted, would have been within the scope of that copyright as extended to all associated designs and articles:

Provided that this subsection shall have effect subject to the provisions of the First Schedule to this Act in cases falling within that Schedule.

- (2) Where copyright subsists in an artistic work, and—
- (a) a corresponding design is applied industrially by or with the licence of the owner of the copyright in the work, and
 - (b) articles to which the design has been so applied are sold, let for hire, or offered for sale or hire, and
 - (c) at the time when those articles are sold, let for hire, or offered for sale or hire, they are not articles in respect of which the design has been registered under the Act of 1949,

the following provisions of this section shall apply.

- (3) Subject to the next following subsection,—
- (a) during the relevant period of fifteen years, it shall not be an infringement of the copyright in the work to do anything which, at the time when it is done, would have been within the scope of the copyright in the design if the design had, immediately before that time, been registered in respect of all relevant articles; and
 - (b) after the end of the relevant period of fifteen years, it shall not be an infringement of the copyright in the work to do anything which, at the time when it is done, would, if the design had been registered immediately before that time, have been within the scope of the copyright in the design as extended to all associated designs and articles.

In this subsection “the relevant period of fifteen years ” means the period of fifteen years beginning with the date on which articles, such as are mentioned in paragraph (b) of the last preceding subsection, were first sold, let for hire, or offered for sale or hire in the circumstances mentioned in paragraph (c) of that subsection; and “all relevant articles ”, in relation to any time within that period, means all articles falling within the said paragraph (b) which had before that time been sold, let for hire, or offered for sale or hire in those circumstances.

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- (4) For the purposes of subsections (2) and (3) of this section,, no account shall be taken of any articles in respect of which, at the time when they were sold, let for hire, or offered for sale or hire, the design in question was excluded from registration under the Act of 1949 by rules made under subsection (4) of section one of that Act (which relates to the exclusion of designs for articles which are primarily literary or artistic in character); and for the purposes of any proceedings under this Act a design shall be conclusively presumed to have been so excluded if—
- (a) before the commencement of those proceedings, an application for the registration of the design under the Act of 1949 in respect of those articles had been refused;
 - (b) the reason or one of the reasons stated for the refusal was that the design was excluded from such registration by rules made under the said subsection (4); and
 - (c) no appeal against that refusal had been allowed before the date of the commencement of the proceedings or was pending on that date.
- (5) The power of the Board of Trade to make rules under section thirty-six of the Act of 1949 shall include power to make rules for the purposes of this section for determining the circumstances in which a design is to be taken to be applied industrially.
- (6) In this section, references to the scope of the copyright in a registered design are references to the aggregate of the things, which, by virtue of section seven of the Act of 1949, the registered proprietor of the design has the exclusive right to do, and references to the scope of the copyright in a registered design as extended to all associated designs and articles are references to the aggregate of the things which, by virtue of that section, the registered proprietor would have had the exclusive right to do if—
- (a) when that design was registered, there had at the same time been registered every possible design consisting of that design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, and the said proprietor had been registered as the proprietor of every such design, and
 - (b) the design in question, and every other design such as is mentioned in the preceding paragraph, had been registered in respect of all the articles to which it was capable of being applied.
- (7) In this section “corresponding design ”, in relation to an artistic work, means a design which, when applied to an article, results in a reproduction of that work.

11 Provisions as to anonymous and pseudonymous works, and works of joint authorship

- (1) The preceding provisions of this Part of this Act shall have effect subject to the modifications specified in the Second Schedule to this Act in the case of works published anonymously or pseudonymously.
- (2) The provisions of the Third Schedule to this Act shall have effect with respect to works of joint authorship.
- (3) In this Act “work of joint authorship ” means a work produced by the collaboration of two or more authors in which the contribution of each author is not separate from the contribution of the other author or authors.

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PART II

COPYRIGHT IN SOUND RECORDINGS, CINEMATOGRAPH FILMS, BROADCASTS, ETC.

12 Copyright in sound recordings

- (1) Copyright shall subsist, subject to the provisions of this Act, in every sound recording of which the maker was a qualified person at the time when the recording was made.
- (2) Without prejudice to the preceding subsection, copyright shall subsist, subject to the provisions of this Act, in every sound recording which has been published, if the first publication of the recording took place in the United Kingdom or in another country to which this section extends.
- (3) Copyright subsisting in a sound recording by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the recording is first published, and shall then expire.
- (4) Subject to the provisions of this Act, the maker of a sound recording shall be entitled to any copyright subsisting in the recording by virtue of this section:

Provided that where a person commissions the making of a sound recording, and pays or agrees to pay for it in money or money's worth, and the recording is made in pursuance of that commission, that person, in the absence of any agreement to the contrary, shall, subject to the provisions of Part VI of this Act, be entitled to any copyright subsisting in the recording by virtue of this section.

- (5) The acts restricted by the copyright in a sound recording are the following, whether a record embodying the recording is utilised directly or indirectly in doing them, that is to say,—
 - (a) making a record embodying the recording ;
 - (b) causing the recording to be heard in public ;
 - (c) broadcasting the recording.
- (6) The copyright in a sound recording is not infringed by a person who does any of those acts in the United Kingdom in relation to a sound recording, or part of a sound recording, if—
 - (a) records embodying that recording, or that part of the recording, as the case may be, have previously been issued to the public in the United Kingdom, and
 - (b) at the time when those records were so issued, neither the records nor the containers in which they were so issued bore a label or other mark indicating the year in which the recording was first published:

Provided that this subsection shall not apply if it is shown that the records in question were not issued by or with the licence of the owner of the copyright, or that the owner of the copyright had taken all reasonable steps for securing that records embodying the recording or part thereof would not be issued to the public in the United Kingdom without such a label or mark either on the records themselves or on their containers.

- (7) Where a sound recording is caused to be heard in public—
 - (a) at any premises where persons reside or sleep, as part of the amenities provided exclusively or mainly for residents or inmates therein, or
 - (b) as part of the activities of, or for the benefit of, a club, society or other organisation which is not established or conducted for profit and whose main

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objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare,
the act of causing it to be so heard shall not constitute an infringement of the copyright in the recording:

Provided that this subsection shall not apply—

- (i) in the case of such premises as are mentioned in paragraph (a) of this subsection, if a special charge is made for admission to the part of the premises where the recording is to be heard ; or
 - (ii) in the case of such an organisation as is mentioned in paragraph (b) of this subsection, if a charge is made for admission to the place where the recording is to be heard, and any of the proceeds of the charge are applied otherwise than for the purposes of the organisation.
- (8) For the purposes of this Act a sound recording shall be taken to be made at the time when the first record embodying the recording is produced, and the maker of a sound recording is the person who owns that record at the time when the recording is made.
- (9) In this Act “sound recording ” means the aggregate of the sounds embodied in, and capable of being reproduced by means of, a record of any description, other than a sound-track associated with a cinematograph film; and " publication in relation to a sound recording, means the issue to the public of records embodying the recording or any part thereof.

13 Copyright in cinematograph films

- (1) Copyright shall subsist, subject to the provisions of this Act, in every cinematograph film of which the maker was a qualified person for the whole or a substantial part of the period during which the film was made.
- (2) Without prejudice to the preceding subsection, copyright shall subsist, subject to the provisions of this Act, in every cinematograph film which has been published, if the first publication of the film took place in the United Kingdom or in another country to which this section extends.
- (3) Copyright subsisting in a cinematograph film by virtue of this section—
 - (a) in the case of a film which is registrable under Part III of the Cinematograph Films Act, 1938, shall continue to subsist until the film is registered thereunder, and thereafter until the end of the period of fifty years from the end of the calendar year in which it is so registered;
 - (b) in the case of a film which is not so registrable, shall continue until the film is published, and thereafter until the end of the period of fifty years from the end of the calendar year which includes the date of its first publication, or, if copyright in the film subsists by virtue only of the last preceding subsection, shall continue as from the date of first publication until the end of the period of fifty years from the end of the calendar year which includes that date,
 and shall then expire:

Provided that if the Parliament of Northern Ireland passes legislation for purposes similar to those of Part III of the said Act of 1938, then, in the case of a cinematograph film which is registered under that legislation, at a time when it has not been registered under the said Part III, the copyright shall continue to subsist until the end of the period

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of fifty years from the end of the calendar year which includes the date on which the film is registered under that legislation, and shall then expire.

- (4) Subject to the provisions of Part VI of this Act, the maker of a cinematograph film shall be entitled to any copyright subsisting in the film by virtue of this section.
- (5) The acts restricted by the copyright in a cinematograph film are—
- (a) making a copy of the film ;
 - (b) causing the film, in so far as it consists of visual images, to be seen in public, or, in so far as it consists of sounds, to be heard in public;
 - (c) broadcasting the film ;
 - (d) causing the film to be transmitted to subscribers to a diffusion service.
- (6) The copyright in a cinematograph film is not infringed by making a copy of it for the purposes of a judicial proceeding, or by causing it to be seen or heard in public for the purposes of such a proceeding.
- (7) Where by virtue of this section copyright has subsisted in a cinematograph film, a person who, after that copyright has expired, causes the film to be seen, or to be seen and heard, in public does not thereby infringe any copyright subsisting by virtue of Part I of this Act in any literary, dramatic, musical or artistic work.
- (8) In the case of any such film as is mentioned in paragraph (a) of section thirty-five of the Cinematograph Films Act, 1938 (which relates to newsreels), the copyright in the film is not infringed by causing it to be seen or heard in public after the end of the period of fifty years from the end of the calendar year in which the principal events depicted in the film occurred.
- (9) For the purposes of this Act a cinematograph film shall be taken to include the sounds embodied in any sound-track associated with the film, and references to a copy of a cinematograph film shall be construed accordingly:

Provided that where those sounds are also embodied in a record, other than such a sound-track or a record derived (directly or indirectly) from such a sound-track, the copyright in the film is not infringed by any use made of that record.

- (10) In this Act—

“cinematograph film ” means any sequence of visual images recorded on material of any description (whether translucent or not) so as to be capable, by the use of that material,—

- (a) of being shown as a moving picture, or
- (b) of being recorded on other material (whether translucent or not), by the use of which it can be so shown;

“the maker ”, in relation to a cinematograph film, means the person by whom the arrangements necessary for the making of the film are undertaken ;

“publication ”, in relation to a cinematograph film, means the sale, letting on hire, or offer for sale or hire, of copies of the film to the public ;

“copy ”, in relation to a cinematograph film, means any print, negative, tape or other article on which the film or part of it is recorded,

and references in this Act to a sound-track associated with a cinematograph film are references to any record of sounds which is incorporated in any print, negative, tape or other article on which the film or part of it, in so far as it consists of visual images, is recorded, or which is issued by the maker of the film for use in conjunction with such an article.

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- (11) References in this section to Part III of the Cinematograph Films Act, 1938, shall be construed as including references to any enactments for the time being in force amending or substituted for the provisions of the said Part III.

14 Copyright in television broadcasts and sound broadcasts

- (1) Copyright shall subsist, subject to the provisions of this Act,—
- (a) in every television broadcast made by the British Broadcasting Corporation (in this Act referred to as “the Corporation”) or by the Independent Television Authority (in this Act referred to as “the Authority”) from a place in the United Kingdom or in any other country to which this section extends, and
 - (b) in every sound broadcast made by the Corporation or the Authority from such a place.
- (2) Subject to the provisions of this Act, the Corporation or the Authority, as the case may be, shall be entitled to any copyright subsisting in a television broadcast or sound broadcast made by them; and any such copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the broadcast is made, and shall then expire.
- (3) In so far as a television broadcast or sound broadcast is a repetition (whether the first or any subsequent repetition) of a television broadcast or sound broadcast previously made as mentioned in subsection (1) of this section (whether by the Corporation or by the Authority), and is made by broadcasting material recorded on film, records or otherwise,—
- (a) copyright shall not subsist therein by virtue of this section if it is made after the end of the period of fifty years from the end of the calendar year in which the previous broadcast was made; and
 - (b) if it is made before the end of that period, any copyright subsisting therein by virtue of this section shall expire at the end of that period.
- (4) The acts restricted by the copyright in a television broadcast or sound broadcast are—
- (a) in the case of a television broadcast in so far as it consists of visual images, making, otherwise than for private purposes, a cinematograph film of it or a copy of such a film ;
 - (b) in the case of a sound broadcast, or of a television broadcast in so far as it consists of sounds, making, otherwise than for private purposes, a sound recording of it or a record embodying such a recording;
 - (c) in the case of a television broadcast, causing it, in so far as it consists of visual images, to be seen in public, or, in so far as it consists of sounds, to be heard in public, if it is seen or heard by a paying audience;
 - (d) in the case either of a television broadcast or of a sound broadcast, re-broadcasting it.
- (5) The restrictions imposed by virtue of the last preceding subsection in relation to a television broadcast or sound broadcast made by the Corporation or by the Authority shall apply whether the act in question is done by the reception of the broadcast or by making use of any record, print, negative, tape or other article on which the broadcast has been recorded.
- (6) In relation to copyright in television broadcasts, in so far as they consist of visual images, the restrictions imposed by virtue of subsection (4) of this section shall apply

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to any sequence of images sufficient to be seen as a moving picture; and accordingly, for the purpose of establishing an infringement of such copyright, it shall not be necessary to prove that the act in question extended to more than such a sequence of images.

- (7) For the purposes of subsection (4) of this section a cinematograph film or a copy thereof, or a sound recording or a record embodying a recording, shall be taken to be made otherwise than for private purposes if it is made for the purposes of the doing by any person of any of the following acts, that is to say,—
- (a) the sale or letting for hire of any copy of the film, or, as the case may be, of any record embodying the recording;
 - (b) broadcasting the film or recording;
 - (c) causing the film or recording to be seen or heard in public.
- (8) For the purposes of paragraph (c) of subsection (4) of this section, a television broadcast shall be taken to be seen or heard by a paying audience if it is seen or heard by persons who either—
- (a) have been admitted for payment to the place where the broadcast is to be seen or heard, or have been admitted for payment to a place of which that place forms part, or
 - (b) have been admitted to the place where the broadcast is to be seen or heard in circumstances where goods or services are supplied there at prices which exceed the prices usually charged at that place and are partly attributable to the facilities afforded for seeing or hearing the broadcast:

Provided that for the purposes of paragraph (a) of this subsection no account shall be taken—

- (i) of persons admitted to the place in question as residents or inmates therein, or
 - (ii) of persons admitted to that place as members of a club or society, where the payment is only for membership of the club or society and the provision of facilities for seeing or hearing television broadcasts is only incidental to the main purposes of the club or society.
- (9) The copyright in a television broadcast or sound broadcast is not infringed by anything done in relation to the broadcast for the purposes of a judicial proceeding.
- (10) In this Act “television broadcast” means visual images broadcast by way of television, together with any sounds broadcast for reception along with those images, and “sound broadcast” means sounds broadcast otherwise than as part of a television broadcast; and for the purposes of this Act a television broadcast or sound broadcast shall be taken to be made by the body by whom, at the time when, and from the place from which, the visual images or sounds in question, or both, as the case may be, are broadcast.

15 Copyright in published editions of works

- (1) Copyright shall subsist, subject to the provisions of this Act, in every published edition of any one or more literary, dramatic or musical works in the case of which either—
- (a) the first publication of the edition took place in the United Kingdom, or in another country to which this section extends, or
 - (b) the publisher of the edition was a qualified person at the date of the first publication thereof:

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Provided that this subsection does not apply to an edition which reproduces the typographical arrangement of a previous edition of the same work or works.

- (2) Subject to the provisions of this Act, the publisher of an edition shall be entitled to any copyright subsisting in the edition by virtue of this section; and any such copyright shall continue to subsist until the end of the period of twenty-five years from the end of the calendar year in which the edition was first published, and shall then expire.
- (3) The act restricted by the copyright subsisting by virtue of this section in a published edition is the making, by any photographic or similar process, of a reproduction of the typographical arrangement of the edition.
- (4) The copyright under this section in a published edition is not infringed by the making by or on behalf of a librarian of a reproduction of the typographical arrangement of the edition, if he is the librarian of a library of a class prescribed by regulations made under this subsection by the Board of Trade, and the conditions prescribed by those regulations are complied with.

16 Supplementary provisions for purposes of Part II

- (1) The provisions of this section shall have effect with respect to copyright subsisting by virtue of this Part of this Act in sound recordings, cinematograph films, television broadcasts and sound broadcasts, and in published editions of literary, dramatic and musical works; and in those provisions references to the relevant provision of this Part of this Act, in relation to copyright in a subject-matter of any of those descriptions, are references to the provision of this Part of this Act whereby it is provided that (subject to compliance with the conditions specified therein) copyright shall subsist in that description of subject-matter.
- (2) Any copyright subsisting by virtue of this Part of this Act is infringed by any person who, without the licence of the owner of the copyright, imports an article (otherwise than for his private and domestic use) into the United Kingdom, or into any other country to which the relevant provision of this Part of this Act extends, if to his knowledge the making of that article constituted an infringement of that copyright, or would have constituted such an infringement if the article had been made in the place into which it is so imported.
- (3) Any such copyright is also infringed by any person who, in the United Kingdom, or in any other country to which the relevant provision of this Part of this Act extends, and without the licence of the owner of the copyright,—
 - (a) sells, lets for hire, or by way of trade offers or exposes for sale or hire any article, or
 - (b) by way of trade exhibits any article in public,if to his knowledge the making of the article constituted an infringement of that copyright, or (in the case of an imported article) would have constituted an infringement of that copyright if the article had been made in the place into which it was imported.
- (4) The last preceding subsection shall apply in relation to the distribution of any articles either—
 - (a) for purposes of trade, or
 - (b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright in question,

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as it applies in relation to the sale of an article.

- (5) The three last preceding subsections shall have effect without prejudice to the general provisions of section one of this Act as to infringements of copyright.
- (6) Where by virtue of this Part of this Act copyright subsists in a sound recording, cinematograph film, broadcast or other subject-matter, nothing in this Part of this Act shall be construed as affecting the operation of Part I of this Act in relation to any literary, dramatic, musical or artistic work from which that subject-matter is wholly or partly derived; and copyright subsisting by virtue of this Part of this Act shall be additional to, and independent of, any copyright subsisting by virtue of Part I of this Act:

Provided that this subsection shall have effect subject to the provisions of subsection (7) of section thirteen of this Act.

- (7) The subsistence of copyright under any of the preceding sections of this Part of this Act shall not affect the operation of any other of those sections under which copyright can subsist.

PART III

REMEDIES FOR INFRINGEMENTS OF COPYRIGHT

17 Action by owner of copyright for infringement

- (1) Subject to the provisions of this Act, infringements of copyright shall be actionable at the suit of the owner of the copyright; and in any action for such an infringement all such relief, by way of damages, injunction, accounts or otherwise, shall be available to the plaintiff as is available in any corresponding proceedings in respect of infringements of other proprietary rights.
- (2) Where in an action for infringement of copyright it is proved or admitted—
 - (a) that an infringement was committed, but
 - (b) that at the time of the infringement the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work or other subject-matter to which the action relates,the plaintiff shall not be entitled under this section to any damages against the defendant in respect of the infringement, but shall be entitled to an account of profits in respect of the infringement whether any other relief is granted under this section or not.
- (3) Where in an action under this section an infringement of copyright is proved or admitted, and the court, having regard (in addition to all other material considerations) to—
 - (a) the flagrancy of the infringement, and
 - (b) any benefit shown to have accrued to the defendant by reason of the infringement,

is satisfied that effective relief would not otherwise be available to the plaintiff, the court, in assessing damages for the infringement, shall have power to award such additional damages by virtue of this subsection as the court may consider appropriate in the circumstances.

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- (4) In an action for infringement of copyright in respect of the construction of a building, no injunction or other order shall be made—
- (a) after the contraction of the building has been begun, so as to prevent it from being completed, or
 - (b) so as to require the building, in so far as it has been constructed, to be demolished.
- (5) In this Part of this Act “action” includes a counterclaim, and references to the plaintiff and to the defendant in an action shall be construed accordingly.
- (6) In the application of this Part of this Act to Scotland, “injunction” means an interdict and “interlocutory injunction” means an interim interdict, “accounts” means count, reckoning and payment, “an account of profits” means an accounting and payment of profits, “plaintiff” means pursuer, “defendant” means defender and “costs” means expenses.

18 Rights of owner of copyright in respect of infringing copies, etc.

- (1) Subject to the provisions of this Act, the owner of any copyright shall be entitled to all such rights and remedies, in respect of the conversion or detention by any person of any infringing copy, or of any plate used or intended to be used for making infringing copies, as he would be entitled to if he were the owner of every such copy or plate and had been the owner thereof since the time when it was made:

Provided that if, by virtue of subsection (2) of section three of the Limitation Act, 1939 (which relates to successive conversions or detentions), or of any corresponding provision which may be enacted by the Parliament of Northern Ireland, the title of the owner of the copyright to such a copy or plate would (if he had then been the owner of the copy or plate) have been extinguished at the end of the period mentioned in that subsection or corresponding provision, he shall not be entitled to any rights or remedies under this subsection in respect of anything done in relation to that copy or plate after the end of that period.

- (2) A plaintiff shall not be entitled by virtue of this section to any damages or to any other pecuniary remedy (except costs) if it is proved or admitted that, at the time of the conversion or detention in question,—
- (a) the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work or other subject-matter to which the action relates, or
 - (b) where the articles converted or detained were infringing copies, the defendant believed, and had reasonable grounds for believing, that they were not infringing copies, or
 - (c) where the article converted or detained was a plate used or intended to be used for making any articles, the defendant believed, and had reasonable grounds for believing, that the articles so made or intended to be made were not, or (as the case may be) would not be, infringing copies.
- (3) In this Part of this Act “infringing copy”—
- (a) in relation to a literary, dramatic, musical or artistic work, or to such a published edition as is mentioned in section fifteen of this Act, means a reproduction otherwise than in the form of a cinematograph film,
 - (b) in relation to a sound recording, means a record embodying that recording,

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- (c) in relation to a cinematograph film, means a copy of the film, and
 - (d) in relation to a television broadcast or a sound broadcast, means a copy of a cinematograph film of it or a record embodying a sound recording of it,
- being (in any such case) an article the making of which constituted an infringement of the copyright in the work, edition, recording, film or broadcast, or, in the case of an imported article, would have constituted an infringement of that copyright if the article had been made in the place into which it was imported; and “plate ” includes any stereotype, stone, block, mould, matrix, transfer, negative or other appliance.
- (4) In the application of this section to Scotland, for any reference to the conversion or detention by any person of an infringing copy there shall be substituted a reference to an intromission by any person with an infringing copy, and for any reference to articles converted or detained there shall be substituted a reference to articles intromitted with.

19 Proceedings in case of copyright subject to exclusive licence

- (1) The provisions of this section shall have effect as to proceedings in the case of any copyright in respect of which an exclusive licence has been granted and is in force at the time of the events to which the proceedings relate.
- (2) Subject to the following provisions of this section—
- (a) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, under section seventeen of this Act as if the licence had been an assignment, and those rights and remedies shall be concurrent with the rights and remedies of the owner of the copyright under that section;
 - (b) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, by virtue of the last preceding section as if the licence had been an assignment; and
 - (c) the owner of the copyright shall not have any rights of action, or be entitled to any remedies, by virtue of the last preceding section which he would not have had or been entitled to if the licence had been an assignment.
- (3) Where an action is brought either by the owner of the copyright or by the exclusive licensee, and the action, in so far as it is brought under section seventeen of this Act, relates (wholly or partly) to an infringement in respect of which they have concurrent rights of action under that section, the owner or licensee, as the case may be, shall not be entitled, except with the leave of the court, to proceed with the action, in so far as it is brought under that section and relates to that infringement, unless the other party is either joined as a plaintiff in the action or added as a defendant:
- Provided that this subsection shall not affect the granting of an interlocutory injunction on the application of either of them.
- (4) In any action brought by the exclusive licensee by virtue of this section, any defence which would have been available to a defendant in the action, if this section had not been enacted and the action had been brought by the owner of the copyright, shall be available to that defendant as against the exclusive licensee.
- (5) Where an action is brought in the circumstances mentioned in subsection (3) of this section, and the owner of the copyright and the exclusive licensee are not both plaintiffs in the action, the court, in assessing damages in respect of any such infringement as is mentioned in that subsection,—

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- (a) if the plaintiff is the exclusive licensee, shall take into account any liabilities (in respect of royalties or otherwise) to which the licence is subject, and
 - (b) whether the plaintiff is the owner of the copyright or the exclusive licensee, shall take into account any pecuniary remedy already awarded to the other party under section seventeen of this Act in respect of that infringement, or, as the case may require, any right of action exercisable by the other party under that section in respect thereof.
- (6) Where an action, in so far as it is brought under section seventeen of this Act, relates (wholly or partly) to an infringement in respect of which the owner of the copyright and the exclusive licensee have concurrent rights of action under that section, and in that action (whether they are both parties to it or not) an account of profits is directed to be taken in respect of that infringement, then, subject to any agreement of which the court is aware, whereby the application of those profits is determined as between the owner of the copyright and the exclusive licensee, the court shall apportion the profits between them as the court may consider just, and shall give such directions as the court may consider appropriate for giving effect to that apportionment.
- (7) In an action brought either by the owner of the copyright or by the exclusive licensee,
- (a) no judgment or order for the payment of damages in respect of an infringement of copyright shall be given or made under section seventeen of this Act, if a final judgment or order has been given or made awarding an account of profits to the other party under that section in respect of the same infringement; and
 - (b) no judgment or order for an account of profits in respect of an infringement of copyright shall be given or made under that section, if a final judgment or order has been given or made awarding either damages or an account of profits to the other party under that section in respect of the same infringement.
- (8) Where, in an action brought in the circumstances mentioned in subsection (3) of this section, whether by the owner of the copyright or by the exclusive licensee, the other party is not joined as a plaintiff (either at the commencement of the action or subsequently), but is added as a defendant, he shall not be liable for any costs in the action unless he enters an appearance and takes part in the proceedings.
- (9) In this section “exclusive licence” means a licence in writing, signed by or on behalf of an owner or prospective owner of copyright, authorising the licensee, to the exclusion of all other persons, including the grantor of the licence, to exercise a right which by virtue of this Act would (apart from the licence) be exercisable exclusively by the owner of the copyright, and “exclusive licensee” shall be construed accordingly; “the other party”, in relation to the owner of the copyright, means the exclusive licensee, and, in relation to the exclusive licensee, means the owner of the copyright; and “if the licence had been an assignment” means if, instead of the licence, there had been granted (subject to terms and conditions corresponding as nearly as may be with those subject to which the licence was granted) an assignment of the copyright in respect of its application to the doing, at the places and times authorised by the licence, of the acts so authorised.

20 Proof of facts in copyright actions

- (1) In any action brought by virtue of this Part of this Act—

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- (a) copyright shall be presumed to subsist in the work or other subject-matter to which the action relates, if the defendant does not put in issue the question whether copyright subsists therein, and
 - (b) where the subsistence of the copyright is proved or admitted, or is presumed in pursuance of the preceding paragraph, the plaintiff shall be presumed to be the owner of the copyright, if he claims to be the owner of the copyright and the defendant does not put in issue the question of his ownership thereof.
- (2) Subject to the preceding subsection, where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author appeared on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appeared (if it was his true name or a name by which he was commonly known) shall, in any action brought by virtue of this Part of this Act, be presumed, unless the contrary is proved,—
- (a) to be the author of the work, and
 - (b) to have made the work in circumstances not falling within subsection (2), subsection (3) or subsection (4) of section four of this Act.
- (3) In the case of a work alleged to be a work of joint authorship, the last preceding subsection shall apply in relation to each person alleged to be one of the authors of the work, as if references in that subsection to the author were references to one of the authors.
- (4) Where, in an action brought by virtue of this Part of this Act with respect to a literary, dramatic, musical or artistic work, subsection (2) of this section does not apply, but it is established—
- (a) that the work was first published in the United Kingdom, or in another country to which section two, or, as the case may be, section three, of this Act extends, and was so published within the period of fifty years ending with the beginning of the calendar year in which the action was brought, and
 - (b) that a name purporting to be that of the publisher appeared on copies of the work as first published,
- then, unless the contrary is shown, copyright shall be presumed to subsist in the work and the person whose name so appeared shall be presumed to have been the owner of that copyright at the time of the publication.
- For the purposes of this subsection a fact shall be taken to be established if it is proved or admitted, or if it is presumed in pursuance of the following provisions of this section.
- (5) Where in an action brought by virtue of this Part of this Act with respect to a literary, dramatic, musical or artistic work it is proved or admitted that the author of the work is dead,—
- (a) the work shall be presumed to be an original work unless the contrary is proved, and
 - (b) if it is alleged by the plaintiff that a publication specified in the allegation was the first publication of the work, and that it took place in a country and on a date so specified, that publication shall be presumed, unless the contrary is proved, to have been the first publication of the work, and to have taken place in that country and on that date.
- (6) Paragraphs (a) and (b) of the last preceding subsection shall apply where a work has been published, and—

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- (a) the publication was anonymous, or was under a name alleged by the plaintiff to have been a pseudonym, and
- (b) it is not shown that the work has ever been published under the true name of the author, or under a name by which he was commonly known, or that it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry,

as those paragraphs apply in a case where it is proved that the author is dead.

- (7) In any action brought by virtue of this Part of this Act with respect to copyright in a sound recording, if records embodying that recording or part thereof have been issued to the public, and at the time when those records were so issued they bore a label or other mark comprising any one or more of the following statements, that is to say,—
- (a) that a person named on the label or mark was the maker of the sound recording ;
 - (b) that the recording was first published in a year specified on the label or mark ;
 - (c) that the recording was first published in a country specified on the label or mark,

that label or mark shall be sufficient evidence of the facts so stated except in so far as the contrary is proved.

21 Penalties and summary proceedings in respect of dealings which infringe copyright

- (1) Any person who, at a time when copyright subsists in a work,—
- (a) makes for sale or hire, or
 - (b) sells or lets for hire, or by way of trade offers or exposes for sale or hire, or
 - (c) by way of trade exhibits in public, or
 - (d) imports into the United Kingdom, otherwise than for his private and domestic use,
- any article which he knows to be an infringing copy of the work, shall be guilty of an offence under this subsection.
- (2) Any person who, at a time when copyright subsists in a work, distributes, either—
- (a) for purposes of trade, or
 - (b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright,
- articles which he knows to be infringing copies of the work, shall be guilty of an offence under this subsection.
- (3) Any person who, at a time when copyright subsists in a work, makes or has in his possession a plate, knowing that it is to be used for making infringing copies of the work, shall be guilty of an offence under this subsection.
- (4) The preceding subsections shall apply in relation to copyright subsisting in any subject-matter by virtue of Part II of this Act, as they apply in relation to copyright subsisting by virtue of Part I of this Act.
- (5) Any person who causes a literary, dramatic or musical work to be performed in public, knowing that copyright subsists in the work and that the performance constitutes an infringement of the copyright, shall be guilty of an offence under this subsection.

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- (6) The preceding provisions of this section apply only in respect of acts done in the United Kingdom.
- (7) A person guilty of an offence under subsection (1) or subsection (2) of this section shall on summary conviction—
- (a) if it is his first conviction of an offence under this section, be liable to a fine not exceeding forty shillings for each article to which the offence relates;
 - (b) in any other case, be liable to such a fine, or to imprisonment for a term not exceeding two months:
- Provided that a fine imposed by virtue of this subsection shall not exceed fifty pounds in respect of articles comprised in the same transaction.
- (8) A person guilty of an offence under subsection (3) or subsection (5) of this section shall on summary conviction—
- (a) if it is his first conviction of an offence under this section, be liable to a fine not exceeding fifty pounds;
 - (b) in any other case, be liable to such a fine, or to imprisonment for a term not exceeding two months.
- (9) The court before which a person is charged with an offence under this section may, whether he is convicted of the offence or not, order that any article in his possession which appears to the court to be an infringing copy, or to be a plate used or intended to be used for making infringing copies, shall be destroyed or delivered up to the owner of the copyright in question or otherwise dealt with as the court may think fit.
- (10) An appeal shall lie to a court of quarter sessions from any order made under the last preceding subsection by a court of summary jurisdiction; and where such an order is made by the sheriff there shall be a like right of appeal against the order as if it were a conviction.

22 Provision for restricting importation of printed copies

- (1) The owner of the copyright in any published literary, dramatic or musical work may give notice in writing to the Commissioners of Customs and Excise (in this section referred to as “the Commissioners”)—
- (a) that he is the owner of the copyright in the work, and
 - (b) that he requests the Commissioners, during a period specified in the notice, to treat as prohibited goods copies of the work to which this section applies:
- Provided that the period specified in a notice under this subsection shall not exceed five years and shall not extend beyond the end of the period for which the copyright is to subsist.
- (2) This section applies, in the case of a work, to any printed copy made outside the United Kingdom which, if it had been made in the United Kingdom, would be an infringing copy of the work.
- (3) Where a notice has been given under this section in respect of a work, and has not been withdrawn, the importation into the United Kingdom, at a time before the end of the period specified in the notice, of any copy of the work to which this section applies shall, subject to the following provisions of this section, be prohibited:

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Provided that this subsection shall not apply to the importation of any article by a person for his private and domestic use.

- (4) The Commissioners may make regulations prescribing the form in which notices are to be given under this section, and requiring a person giving such a notice, either at the time of giving the notice or at the time when the goods in question are imported, or at both those times, to furnish the Commissioners with such evidence, and to comply with such other conditions (if any), as may be specified in the regulations; and any such regulations may include such incidental and supplementary provisions as the Commissioners consider expedient for the purposes of this section.
- (5) Without prejudice to the generality of the last preceding subsection, regulations made under that subsection may include provision for requiring a person who has given a notice under subsection (1) of this section, or a notice purporting to be a notice under that subsection,—
 - (a) to pay such fees in respect of the notice as may be prescribed by the regulations ;
 - (b) to give to the Commissioners such security as may be so prescribed, in respect of any liability or expense which they may incur in consequence of the detention, at any time within the period specified in the notice, of any copy of the work to which the notice relates, or in consequence of anything done in relation to a copy so detained;
 - (c) whether any such security is given or not, to keep the Commissioners indemnified against any such liability or expense as is mentioned in the last preceding paragraph.
- (6) For the purposes of section eleven of the Customs and Excise Act, 1952 (which relates to the disposal of duties), any fees paid in pursuance of regulations made under this section shall be treated as money collected on account of customs.
- (7) Notwithstanding anything in the Customs and Excise Act, 1952, a person shall not be liable to any penalty under that Act (other than forfeiture of the goods) by reason that any goods are treated as prohibited goods by virtue of this section.

PART IV

PERFORMING RIGHT TRIBUNAL

23 Establishment of tribunal

- (1) There shall be established a tribunal, to be called the Performing Right Tribunal (in this Act referred to as “the tribunal”), for the purpose of exercising the jurisdiction conferred by the provisions of this Part of this Act.
- (2) The tribunal shall consist of a chairman appointed by the Lord Chancellor, who shall be a barrister, advocate or solicitor of not less than seven years' standing or a person who has held judicial office, and of not less than two nor more than four other members appointed by the Board of Trade.
- (3) A person shall be disqualified for being appointed, or being, a member of the tribunal so long as he is a member of the Commons House of Parliament, or of the Senate or House of Commons of Northern Ireland.

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- (4) The provisions of the Fourth Schedule to this Act shall have effect with respect to the tribunal.
- (5) There shall be paid to the members of the tribunal such remuneration (whether by way of salaries or fees), and such allowances, as the Board of Trade, with the approval of the Treasury, may determine in the case of those members respectively.
- (6) The Board of Trade may appoint such officers and servants of the tribunal as the Board, with the approval of the Treasury as to numbers and remuneration, may determine.
- (7) The remuneration and allowances of members of the tribunal, the remuneration of any officers and servants appointed under the last preceding subsection, and such other expenses of the tribunal as the Board of Trade with the approval of the Treasury may determine; shall be paid out of moneys provided by Parliament.

24 General provisions as to jurisdiction of tribunal

- (1) Subject to the provisions of this Part of this Act, the function of the tribunal shall be to determine disputes arising between licensing bodies and persons requiring licences, or organisations claiming to be representative of such persons, either—
 - (a) on the reference of a licence scheme to the tribunal, or
 - (b) on the application of a person requiring a licence either in accordance with a licence scheme or in a case not covered by a licence scheme.
- (2) In this Part of this Act “licence ” means a licence granted by or on behalf of the owner, or prospective owner, of the copyright in a literary, dramatic or musical work, or in a sound recording or a television broadcast, being—
 - (a) in the case of a literary, dramatic or musical work, a licence to perform in public, or to broadcast, the work or an adaptation thereof, or to cause the work or an adaptation thereof to be transmitted to subscribers to a diffusion service;
 - (b) in the case of a sound recording, a licence to cause it to be heard in public, or to broadcast it;
 - (c) in the case of a television broadcast, a licence to cause it, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public.
- (3) In this Part of this Act “licensing body ”—
 - (a) in relation to such licences as are mentioned in paragraph (a) of the last preceding subsection, means a society or other organisation which has as its main object, or one of its main objects, the negotiation or granting of such licences, either as owner or prospective owner of copyright or as agent for the owners or prospective owners thereof;
 - (b) in relation to such licences as are mentioned in paragraph (b) of the last preceding subsection, means any owner or prospective owner of copyright in sound recordings, or any person or body of persons acting as agent for any owners or prospective owners of copyright in sound recordings in relation to the negotiation or granting of such licences ; and
 - (c) in relation to such licences as are mentioned in paragraph (c) of the last preceding subsection, means the Corporation or the Authority or any organisation appointed by them, or either of them, in accordance with the provisions of the Fifth Schedule to this Act:

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Provided that paragraph (a) of this subsection shall not apply to an organisation by reason that its objects include the negotiation or granting of individual licences, each relating to a single work or the works of a single author, if they do not include the negotiation or granting of general licences, each extending to the works of several authors.

- (4) In this Part of this Act “licence scheme”, in relation to licences of any description, means a scheme made by one or more licensing bodies, setting out the classes of cases in which they, or the persons on whose behalf they act, are willing to grant licences of that description, and the charges (if any), and terms and conditions, subject to which licences would be granted in those classes of cases; and in this subsection “scheme” includes anything in the nature of a scheme, whether described therein as a scheme or as a tariff or by any other name.
- (5) References in this Part of this Act to terms and conditions are references to any terms and conditions other than those relating to the amount of a charge for a licence; and references to giving an opportunity to a person of presenting his case are references to giving him an opportunity, at his option, of submitting representations in writing, or of being heard, or of submitting representations in writing and being heard.

25 Reference of licence schemes to tribunal

- (1) Where, at any time while a licence scheme is in operation, a dispute arises with respect to the scheme between the licensing body operating the scheme and—
- (a) an organisation claiming to be representative of persons requiring licences in cases of a class to which the scheme applies, or
 - (b) any person claiming that he requires a licence in a case of a class to which the scheme applies,
- the organisation or person in question may refer the scheme to the tribunal in so far as it relates to cases of that class.
- (2) The parties to a reference under this section shall be—
- (a) the organisation or person at whose instance the reference is made;
 - (b) the licensing body operating the scheme to which the reference relates; and
 - (c) such other organisations or persons (if any) as apply to the tribunal to be made parties to the reference and, in accordance with the next following subsection, are made parties thereto.
- (3) Where an organisation (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the tribunal to be made a party to a reference, and the tribunal is satisfied that the organisation or person has a substantial interest in the matter in dispute, the tribunal may, if it thinks fit, make that organisation or person a party to the reference.
- (4) The tribunal shall not entertain a reference under this section by an organisation unless the tribunal is satisfied that the organisation is reasonably representative of the class of persons which it claims to represent.
- (5) Subject to the last preceding subsection, the tribunal, on any reference under this section, shall consider the matter in dispute, and, after giving to the parties to the reference an opportunity of presenting their cases respectively, shall make such order, either confirming or varying the scheme, in so far as it relates to cases of the class

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to which the reference relates, as the tribunal may determine to be reasonable in the circumstances.

- (6) An order of the tribunal under this section may, notwithstanding anything contained in the licence scheme to which it relates, be made so as to be in force either indefinitely or for such period as the tribunal may determine.
- (7) Where a licence scheme has been referred to the tribunal under this section, then, notwithstanding anything contained in the scheme,—
 - (a) the scheme shall remain in operation until the tribunal has made an order in pursuance of the reference, and
 - (b) after such an order has been made, the scheme shall remain in operation, in so far as it relates to the class of cases in respect of which the order was made, so long as the order remains in force:

Provided that this subsection shall not apply in relation to a reference as respects any period after the reference has been withdrawn, or has been discharged by virtue of subsection (4) of this section.

26 Further reference of scheme to tribunal

- (1) Where the tribunal has made an order under the last preceding section with respect to a licence scheme, then, subject to the next following subsection, at any time while the order remains in force,—
 - (a) the licensing body operating the scheme, or
 - (b) any organisation claiming to be representative of persons requiring licences in cases of the class to which the order applies, or
 - (c) any person claiming that he requires a licence in a case of that class,may refer the scheme again to the tribunal, in so far as it relates to cases of that class.
- (2) A licence scheme shall not, except with the special leave of the tribunal, be referred again to the tribunal under the preceding subsection at a time earlier than—
 - (a) the end of the period of twelve months beginning with the date on which the order in question was made, in the case of an order made so as to be in force indefinitely or for a period exceeding fifteen months, or
 - (b) the beginning of the period of three months ending with the date of expiry of the order, in the case of an order made so as to be in force for fifteen months or less.
- (3) The parties to a reference under this section shall be—
 - (a) the licensing body, organisation or person at whose instance the reference is made;
 - (b) the licensing body operating the scheme to which the reference relates, if the reference is not made at their instance; and
 - (c) such other organisations or persons (if any) as apply to the tribunal to be made parties to the reference and, in accordance with the provisions applicable in that behalf by virtue of subsection (5) of this section, are made parties thereto.
- (4) Subject to the next following subsection, the tribunal, on any reference under this section, shall consider the matter in dispute, and, after giving to the parties to the reference an opportunity of presenting their cases respectively, shall make such order in relation to the scheme as previously confirmed or varied, in so far as it relates to

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cases of the class in question, either by way of confirming, varying or further varying the scheme, as the tribunal may determine to be reasonable in the circumstances.

- (5) Subsections (3), (4), (6) and (7) of the last preceding section shall apply for the purposes of this section.
- (6) The preceding provisions of this section shall have effect in relation to orders made under this section as they have effect in relation to orders made under the last preceding section.
- (7) Nothing in this section shall be construed as preventing a licence scheme, in respect of which an order has been made under the last preceding section, from being again referred to the tribunal under that section, either—
 - (a) at any time, in so far as the scheme relates to cases of a class to which the order does not apply, or
 - (b) after the expiration of the order, in so far as the scheme relates to cases of the class to which the order applied while it was in force.

27 Applications to tribunal

- (1) For the purposes of this Part of this Act a case shall be taken to be covered by a licence scheme if, in accordance with a licence scheme for the time being in operation, licences would be granted in cases of the class to which that case belongs:

Provided that where, in accordance with the provisions of a licence scheme,—

- (a) the licences which would be so granted would be subject to terms and conditions whereby particular matters would be excepted from the licences, and
- (b) the case in question relates to one or more matters falling within such an exception,

that case shall be taken not to be covered by the scheme.

- (2) Any person who claims, in a case covered by a licence scheme, that the licensing body operating the scheme have refused or failed to grant him a licence in accordance with the provisions of the scheme, or to procure the grant to him of such a licence, may apply to the tribunal under this section.
- (3) Any person who claims that he requires a licence in a case not covered by a licence scheme, and either—
 - (a) that a licensing body have refused or failed to grant the licence, or to procure the grant thereof, and that in the circumstances it is unreasonable that the licence should not be granted, or
 - (b) that any charges, terms or conditions subject to which a licensing body propose that the licence should be granted are unreasonable,
 may apply to the tribunal under this section.
- (4) Where an organisation (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the tribunal to be made a party to an application under the preceding provisions of this section, and the tribunal is satisfied that the organisation or person has a substantial interest in the matter in dispute, the tribunal may, if it thinks fit, make that organisation or person a party to the application.

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- (5) On any application under subsection (2) or subsection (3) of this section the tribunal shall give to the applicant and to the licensing body in question and to every other party (if any) to the application an opportunity of presenting their cases respectively; and if the tribunal is satisfied that the claim of the applicant is well-founded, the tribunal shall make an order declaring that, in respect of the matters specified in the order, the applicant is entitled to a licence on such terms and conditions, and subject to the payment of such charges (if any) as—
- (a) in the case of an application under subsection (2) of this section, the tribunal may determine to be applicable in accordance with the licence scheme, or
 - (b) in the case of an application under subsection (3) of this section, the tribunal may determine to be reasonable in the circumstances.
- (6) Any reference in this section to a failure to grant or procure the grant of a licence shall be construed as a reference to a failure to grant it, or to procure the grant thereof, within a reasonable time after being requested to do so.

28 Exercise of jurisdiction of tribunal in relation to diffusion of foreign broadcasts

- (1) Where, on a reference to the tribunal under this Part of this Act relating to licences to cause works to be transmitted to subscribers to a diffusion service in the United Kingdom, the tribunal is satisfied—
- (a) that the licences are required wholly or partly for the purpose of distributing programmes broadcast, from a place outside the United Kingdom, by an organisation other than the Corporation and the Authority, and
 - (b) that, under the arrangements in accordance with which the programmes are broadcast by that organisation, charges are payable by or on behalf of the organisation to another body, as being the body entitled under the relevant copyright law to authorise the broadcasting of those works from that place,
- the tribunal shall, subject to the next following subsection, exercise its powers under this Part of this Act as the tribunal may consider appropriate for securing that the persons requiring the licences are exempted from the payment of any charges for them in so far as the licences are required for the purpose of distributing those programmes.
- (2) If on such a reference as is mentioned in the last preceding subsection the tribunal is satisfied as to the matters mentioned in paragraphs (a) and (b) of that subsection, but it is shown to the satisfaction of the tribunal that the charges payable by or on behalf of the organisation, as mentioned in paragraph (b) of that subsection,—
- (a) make no allowance for the fact that, in consequence of the broadcasting of the works in question by that organisation, the persons requiring the licences may be enabled to cause those works to be transmitted to subscribers to diffusion services in the United Kingdom, or
 - (b) do not adequately reflect the extent to which it is likely that those persons will cause those works to be so transmitted in consequence of their being so broadcast,

the last preceding subsection shall not apply, but the tribunal shall exercise its powers under this Part of this Act so as to secure that the charges payable for the licences, in so far as the licences are required for the purpose mentioned in the last preceding subsection, are on a scale not exceeding that appearing to the tribunal to be requisite for making good the deficiency (as mentioned in paragraph (a) or paragraph (b) of this subsection, as the case may be) in the charges payable by or on behalf of the organisation broadcasting the works.

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- (3) The preceding provisions of this section shall have effect, with the necessary modifications, in relation to applications under this Part of this Act as they have effect in relation to references thereunder.
- (4) In this section “the relevant copyright law”, in relation to works broadcast from a place outside the United Kingdom, means so much of the laws of the country in which that place is situated as confers rights similar to copyright under this Act or as otherwise relates to such rights; and any reference to works includes a reference to adaptations thereof.

29 Effect of orders of tribunal, and supplementary provisions relating thereto

- (1) Where an order made on a reference under this Part of this Act with respect to a licence scheme is for the time being in force, any person who, in a case covered by the scheme as confirmed or varied by the order, does anything which—
 - (a) apart from this subsection would be an infringement of copyright, but
 - (b) would not be such an infringement if he were the holder of a licence granted in accordance with the scheme, as confirmed or varied by the order, in so far as the scheme relates to cases comprised in the order,
 shall, if he has complied with the requirements specified in the next following subsection, be in the like position, in any proceedings for infringement of that copyright, as if he had at the material time been the holder of such a licence.
- (2) The said requirements are—
 - (a) that, at all material times, the said person has complied with the terms and conditions which, in accordance with the licence scheme as confirmed or varied by the order, would be applicable to a licence covering the case in question, and
 - (b) if, in accordance with the scheme as so confirmed or varied, any charges are payable in respect of such a licence, that at the material time he had paid those charges to the licensing body operating the scheme, or, if at that time the amount payable could not be ascertained, he had given an undertaking to the licensing body to pay the charges when ascertained.
- (3) Where the tribunal has made an order under section twenty-seven of this Act declaring that a person is entitled to a licence in respect of any matters specified in the order, then if—
 - (a) that person has complied with the terms and conditions specified in the order, and
 - (b) in a case where the order requires the payment of charges, he has paid those charges to the licensing body in accordance with the order, or, if the order so provides, has given to the licensing body an undertaking to pay the charges when ascertained,
 he shall be in the like position, in any proceedings for infringement of copyright relating to any of those matters, 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 and conditions specified in the order.
- (4) In the exercise of its jurisdiction in respect of licences relating to television broadcasts, the tribunal shall have regard (among other matters) to any conditions imposed by the promoters of any entertainment or other event which is to be comprised in the broadcasts; and, in particular, the tribunal shall not hold a refusal or failure to grant

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a licence to be unreasonable if it could not have been granted consistently with those conditions:

Provided that nothing in this subsection shall require the tribunal to have regard to any such conditions in so far as they purport to regulate the charges to be imposed in respect of the grant of licences, or in so far as they relate to payments to be made to the promoters of any event in consideration of the grant of facilities for broadcasting.

- (5) Where, on a reference to the tribunal under this Part of this Act,—
- (a) the reference relates to licences in respect of copyright in sound recordings or in television broadcasts, and
 - (b) the tribunal is satisfied that any of the licences in question are required for the purposes of organisations such as are mentioned in paragraph (b) of subsection (7) of section twelve of this Act,

the tribunal may, if it thinks fit, exercise its powers under this Part of this Act so as to reduce, in the case of those organisations, to such extent as the tribunal thinks fit, the charges which it determines generally to be reasonable in relation to cases of the class to which the reference relates, or, if it thinks fit, so as to exempt those organisations from the payment of any such charges.

- (6) The last preceding subsection shall have effect, with the necessary modifications, in relation to applications under this Part of this Act as it has effect in relation to references thereunder.
- (7) In relation to copyright in a literary, dramatic or musical work, any reference in this section to proceedings for infringement of copyright includes a reference to proceedings brought by virtue of subsection (5) of section twenty-one of this Act.

30 Reference of questions of law to the court

- (1) Any question of law arising in the course of proceedings before the tribunal may, at the request of any party to the proceedings, be referred by the tribunal to the court for decision, whether before or after the tribunal has given its decision in the proceedings:

Provided that a question shall not be referred to the court by virtue of this subsection in pursuance of a request made after the date on which the tribunal gave its decision, unless the request is made before the end of such period as may be prescribed by rules made under the Fourth Schedule to this Act.

- (2) If the tribunal, after giving its decision in any proceedings, refuses any such request to refer a question to the court, the party by whom the request was made may, within such period as may be prescribed by rules of court, apply to the court for an order directing the tribunal to refer the question to the court.
- (3) On any reference to the court under this section with respect to any proceedings before the tribunal, and on any application under the last preceding subsection with respect to any such proceedings, every party to the proceedings before the tribunal shall be entitled to appear and to be heard.
- (4) Where, after the tribunal has given its decision in any proceedings, the tribunal refers to the court under this section a question of law which arose in the course of the proceedings, and the court decides that the question was erroneously determined by the tribunal,—

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- (a) the tribunal, if it considers it requisite to do so for the purpose of giving effect to the decision of the court, shall give to the parties to the proceedings a further opportunity of presenting their cases respectively;
 - (b) in any event, the tribunal shall reconsider the matter in dispute in conformity with the decision of the court;
 - (c) if on such reconsideration it appears to the tribunal to be appropriate to do so, the tribunal shall make such order revoking or modifying any order previously made by it in the proceedings, or, in the case of proceedings under section twenty-seven of this Act where the tribunal refused to make an order, shall make such order under that section, as on such reconsideration the tribunal determines to be appropriate.
- (5) Any reference of a question by the tribunal to the court under this section shall be by way of stating a case for the opinion of the court; and the decision of the court on any such reference shall be final.
- (6) In this section “the court”—
- (a) in relation to any proceedings of the tribunal in England or Wales, or in Northern Ireland, means the High Court; and
 - (b) in relation to any proceedings of the tribunal in Scotland, means the Court of Session.

PART V

EXTENSION OR RESTRICTION OF OPERATION OF ACT

31 Extension of Act to Isle of Man, Channel Islands, colonies and dependencies

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act specified in the Order (including any enactments for the time being in force amending or substituted for those provisions) shall extend, subject to such exceptions and modifications (if any) as may be specified in the Order, to—
- (a) the Isle of Man ;
 - (b) any of the Channel Islands ;
 - (c) any colony;
 - (d) any country outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction ;
 - (e) any country consisting partly of one or more colonies and partly of one or more such countries as are mentioned in the last preceding paragraph.
- (2) The powers conferred by the preceding subsection shall be exercisable in relation to any Order in Council made under the following provisions of this Part of this Act, as those powers are exercisable by virtue of that subsection in relation to the provisions of this Act.
- (3) The legislature of any country to which any provisions of this Act have been extended may modify or add to those provisions, in their operation as part of the law of that country, in such manner as that legislature may consider necessary to adapt the provisions to the circumstances of that country:

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Provided that no such modifications or additions, except in so far as they relate to procedure and remedies, shall be made so as to apply to any work or other subject-matter in which copyright can subsist unless—

- (a) in the case of a literary, dramatic, musical or artistic work, the author of the work, or, in the case of a sound recording or a cinematograph film, the maker of the recording or film, was domiciled or resident in that country at the time when, or during the period while, the work, recording or film was made, or
 - (b) in the case of a published edition of a literary, dramatic or musical work, the publisher of the edition was domiciled or resident in that country at the date of its first publication, or
 - (c) in the case of a literary, dramatic, musical or artistic work, or of a sound recording or a cinematograph film or a published edition, it was first published in that country, or
 - (d) in the case of a television broadcast or sound broadcast, it was made from a place in that country.
- (4) For the purposes of any proceedings under this Act in the United Kingdom, where the proceedings relate to an act done in a country to which any provisions of this Act extend subject to exceptions, modifications or additions,—
- (a) the procedure applicable to the proceedings, including the time within which they may be brought, and the remedies available therein, shall be in accordance with this Act in its operation as part of the law of the United Kingdom; but
 - (b) if the act in question does not constitute an infringement of copyright under this Act in its operation as part of the law of the country where the act was done, it shall (notwithstanding anything in this Act) be treated as not constituting an infringement of copyright under this Act in its operation as part of the law of the United Kingdom.

32 Application of Act to countries to which it does not extend

- (1) Her Majesty may by Order in Council make provision for applying any of the provisions of this Act specified in the Order, in the case of a country to which those provisions do not extend, in any one or more of the following ways, that is to say, so as to secure that those provisions—
- (a) apply in relation to literary, dramatic, musical or artistic works, sound recordings, cinematograph films or editions first published in that country as they apply in relation to literary, dramatic, musical or artistic works, sound recordings, cinematograph films or editions first published in the United Kingdom;
 - (b) apply in relation to persons who, at a material time, are citizens or subjects of that country as they apply in relation to persons who, at such a time, are British subjects;
 - (c) apply in relation to persons who, at a material time, are domiciled or resident in that country as they apply in relation to persons who, at such a time, are domiciled or resident in the United Kingdom;
 - (d) apply in relation to bodies incorporated under the laws of that country as they apply in relation to bodies incorporated under the laws of any part of the United Kingdom;

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- (e) apply in relation to television broadcasts and sound broadcasts made from places in that country, by one or more organisations constituted in, or under the laws of, that country, as they apply in relation to television broadcasts and sound broadcasts made from places in the United Kingdom by the Corporation or the Authority.
- (2) An Order in Council under this section—
 - (a) may apply the provisions in question as mentioned in the preceding subsection, but subject to exceptions or modifications specified in the Order;
 - (b) may direct that the provisions in question shall so apply either generally or in relation to such classes of works, or other classes of cases, as may be specified in the Order.
 - (3) Her Majesty shall not make an Order in Council under this section applying any of the provisions of this Act in the case of a country, other than a country which is a party to a Convention relating to copyright to which the United Kingdom is also a party, unless Her Majesty is satisfied that, in respect of the class of works or other subject-matter to which those provisions relate, provision has been or will be made under the laws of that country whereby adequate protection will be given to owners of copyright under this Act.

33 Provisions as to international organisations

- (1) Where it appears to Her Majesty that one or more sovereign Powers, or the government or governments thereof, are members of an organisation, and that it is expedient that the provisions of this section should apply to that organisation, Her Majesty may by Order in Council declare that the organisation is one to which this section applies.
- (2) Where an original literary, dramatic, musical or artistic work is made by or under the direction or control of an organisation to which this section applies in such circumstances that—
 - (a) copyright would not subsist in the work apart from this subsection, but
 - (b) if the author of the work had been a British subject at the time when it was made, copyright would have subsisted in the work immediately after it was made and would thereupon have vested in the organisation,
 copyright shall subsist in the work as if the author had been a British subject when it was made, that copyright shall continue to subsist so long as the work remains unpublished, and the organisation shall, subject to the provisions of this Act, be entitled to that copyright.
- (3) Where an original literary, dramatic, musical or artistic work is first published by or under the direction or control of an organisation to which this section applies, in such circumstances that, apart from this subsection, copyright does not subsist in the work immediately after the first publication thereof, and either—
 - (a) the work is so published in pursuance of an agreement with the author which does not reserve to the author the copyright (if any) in the work, or
 - (b) the work was made in such circumstances that, if it had been first published in the United Kingdom, the organisation would have been entitled to the copyright in the work,
 copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) as if it had been first published in the United Kingdom, that copyright shall subsist until the end of the period of fifty

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years from the end of the calendar year in which the work was first published, and the organisation shall, subject to the provisions of Part VI of this Act, be entitled to that copyright.

- (4) The provisions of Part I of this Act, with the exception of provisions thereof relating to the subsistence, duration or ownership of copyright, shall apply in relation to copyright subsisting by virtue of this section as they apply in relation to copyright subsisting by virtue of the said Part I.
- (5) An organisation to which this section applies which otherwise has not, or at some material time otherwise had not, the legal capacities of a body corporate shall have, and shall be deemed at all material times to have had, the legal capacities of a body corporate for the purpose of holding, dealing with and enforcing copyright and in connection with all legal proceedings relating to copyright.

34 Extended application of provisions relating to broadcasts

Her Majesty may by Order in Council provide that, subject to such exceptions and modifications (if any) as may be specified in the Order, such provisions of this Act relating to television broadcasts or to sound broadcasts as may be so specified shall apply in relation to the operation of wireless telegraphy apparatus by way of the emission (as opposed to reception) of electro-magnetic energy—

- (a) by such persons or classes of persons, other than the Corporation and the Authority, as may be specified in the Order, and
- (b) for such purposes (whether involving broadcasting or not) as may be so specified,

as they apply in relation to television broadcasts, or, as the case may be, to sound broadcasts, made by the Corporation and the Authority.

35 Denial of copyright to citizens of countries not giving: adequate protection to British works

- (1) If it appears to Her Majesty that the laws of a country fail to give adequate protection to British works to which this section applies, or fail to give such protection in the case of one or more classes of such works (whether the lack of protection relates to the nature of the work or the country of its author or both), Her Majesty may make an Order in Council designating that country and making such provision in relation thereto as is mentioned in the following provisions of this section.
- (2) An Order in Council under this section shall provide that, either generally or in such classes of cases as are specified in the Order, copyright under this Act shall not subsist in works to which this section applies which were first published after a date specified in the Order, if at the time of their first publication the authors thereof were—
 - (a) citizens or subjects of the country designated by the Order, not being at that time persons domiciled or resident in the United Kingdom or in another country to which the relevant provision of this Act extends, or
 - (b) bodies incorporated under the laws of the country designated by the Order.
- (3) In making an Order in Council under this section Her Majesty shall have regard to the nature and extent of the lack of protection for British works in consequence of which the Order is made.

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(4) This section applies to the following works, that is to say, literary, dramatic, musical and artistic works, sound recordings and cinematograph films.

(5) In this section—

“British work ” means a work of which the author, at the time when the work was made, was a qualified person for the purposes of the relevant provision of this Act;

“author ”, in relation to a sound recording or a cinematograph film, means the maker of the recording or film;

“the relevant provision of this Act ”, in relation to literary, dramatic and musical works means section two, in relation to artistic works means section three, in relation to sound recordings means section twelve, and in relation to cinematograph films means section thirteen, of this Act.

PART VI

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

36 Assignments and licences in respect of copyright

(1) Subject to the provisions of this section, copyright shall be transmissible by assignment, by testamentary disposition, or by operation of law, as personal or moveable property.

(2) An assignment of copyright may be limited in any of the following ways, or in any combination of two or more of those ways, that is to say,—

(a) so as to apply to one or more, but not all, of the classes of acts which by virtue of this Act the owner of the copyright has the exclusive right to do (including any one or more classes of acts not separately designated in this Act as being restricted by the copyright, but falling within any of the classes of acts so designated);

(b) so as to apply to any one or more, but not all, of the countries in relation to which the owner of the copyright has by virtue of this Act that exclusive right;

(c) so as to apply to part, but not the whole, of the period for which the copyright is to subsist;

and references in this Act to a partial assignment are references to an assignment so limited.

(3) No assignment of copyright (whether total or partial) shall have effect unless it is in writing signed by or on behalf of the assignor.

(4) A licence granted in respect of any copyright by the person who, in relation to the matters to which the licence relates, is the owner of the copyright shall be binding upon every successor in title to his interest in the copyright, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser; and references in this Act, in relation to any copyright, to the doing of anything with, or (as the case may be) without, the licence of the owner of the copyright shall be construed accordingly.

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37 Prospective ownership of copyright

- (1) Where by an agreement made in relation to any future copyright, and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright (wholly or partially) to another person (in this subsection referred to as “the assignee”), then if, on the coming into existence of the copyright, the assignee or a person claiming under him would, apart from this subsection, be entitled as against all other persons to require the copyright to be vested in him (wholly or partially, as the case may be), the copyright shall, on its coming into existence, vest in the assignee or his successor in title accordingly by virtue of this subsection and without further assurance.
- (2) Where, at the time when any copyright comes into existence, the person who, if he were then living, would be entitled to the copyright is dead, the copyright shall devolve as if it had subsisted immediately before his death and he had then been the owner of the copyright.
- (3) Subsection (4) of the last preceding section shall apply in relation to a licence granted by a prospective owner of any copyright as it applies in relation to a licence granted by the owner of a subsisting copyright, as if any reference in that subsection to the owner's interest in the copyright included a reference to his prospective interest therein.
- (4) The provisions of the Fifth Schedule to this Act shall have effect with respect to assignments and licences in respect of copyright (including future copyright) in television broadcasts.
- (5) In this Act “future copyright” means copyright which will or may come into existence in respect of any future work or class of works or other subject-matter, or on the coming into operation of any provisions of this Act, or in any other future event, and “prospective owner” shall be construed accordingly and, in relation to any such copyright, includes a person prospectively entitled thereto by virtue of such an agreement as is mentioned in subsection (1) of this section.

38 Copyright to pass under will with unpublished work

Where under a bequest (whether specific or general) a person is entitled, beneficially or otherwise, to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless a contrary intention is indicated in the testator's will or a codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

39 Provisions as to Crown and Government departments

- (1) In the case of every original literary, dramatic, musical or artistic work made by or under the direction or control of Her Majesty or a Government department,—
 - (a) if apart from this section copyright would not subsist in the work, copyright shall subsist therein by virtue of this subsection, and
 - (b) in any case, Her Majesty shall, subject to the provisions of this Part of this Act, be entitled to the copyright in the work.
- (2) Her Majesty shall, subject to the provisions of this Part of this Act, be entitled—
 - (a) to the copyright in every original literary, dramatic or musical work first published in the United Kingdom, or in another country to which section two

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- of this Act extends, if first published by or under the direction or control of Her Majesty or a Government department;
- (b) to the copyright in every original artistic work first published in the United Kingdom, or in another country to which section three of this Act extends, if first published by or under such direction or control.
- (3) Copyright in a literary, dramatic or musical work, to which Her Majesty is entitled in accordance with either of the preceding subsections,—
- (a) where the work is unpublished, shall continue to subsist so long as the work remains unpublished, and
- (b) where the work is published, shall subsist (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) until the end of the period of fifty years from the end of the calendar year in which the work was first published, and shall then expire.
- (4) Copyright in an artistic work to which Her Majesty is entitled in accordance with the preceding provisions of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the work was made, and shall then expire :
- Provided that where the work in question is an engraving or a photograph, the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the engraving or photograph is first published.
- (5) In the case of every sound recording or cinematograph film made by or under the direction or control of Her Majesty or a Government department,—
- (a) if apart from this section copyright would not subsist in the recording or film, copyright shall subsist therein by virtue of this subsection, and
- (b) in any case, Her Majesty shall, subject to the provisions of this Part of this Act, be entitled to the copyright in the recording or film, and it shall subsist for the same period as if it were copyright subsisting by virtue of, and owned in accordance with, section twelve or, as the case may be, section thirteen of this Act.
- (6) The preceding provisions of this section shall have effect subject to any agreement made by or on behalf of Her Majesty or a Government department with the author of the work, or the maker of the sound recording or cinematograph film, as the case may be, whereby it is agreed that the copyright in the work, recording or film shall vest in the author or maker, or in another person designated in the agreement in that behalf.
- (7) In relation to copyright subsisting by virtue of this section—
- (a) in the case of a literary, dramatic, musical or artistic work, the provisions of Part I of this Act, with the exception of provisions thereof relating to the subsistence, duration or ownership of copyright, and
- (b) in the case of a sound recording or cinematograph film, the provisions of Part II of this Act, with the exception of provisions thereof relating to the subsistence or ownership of copyright,
- shall apply as those provisions apply in relation to copyright subsisting by virtue of Part I or, as the case may be, Part II of this Act.
- (8) For the avoidance of doubt, it is hereby declared that the provisions of section three of the Crown Proceedings Act, 1947 (which relates to infringements of industrial property by servants or agents of the Crown) apply to copyright under this Act.

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- (9) In this section “Government department” means any department of Her Majesty's Government in the United Kingdom or of the Government of Northern Ireland, or any department or agency of the Government of any other country to which this section extends.

40 Broadcasts of sound recordings and cinematograph films, and diffusion of broadcast programmes

- (1) Where a sound broadcast or television broadcast is made by the Corporation or the Authority, and a person, by the reception of that broadcast, causes a sound recording to be heard in public, he does not thereby infringe the copyright (if any) in that recording under section twelve of this Act.
- (2) Where a television broadcast or sound broadcast is made by the Corporation or the Authority, and the broadcast is an authorised broadcast, any person who, by the reception of the broadcast, causes a cinematograph film to be seen or heard in public shall be in the like position, in any proceedings for infringement of the copyright (if any) in the film under section thirteen of this Act, as if he had been the holder of a licence granted by the owner of that copyright to cause the film to be seen or heard in public by the reception of the broadcast.
- (3) Where a television broadcast or sound broadcast is made by the Corporation or the Authority, and the broadcast is an authorised broadcast, any person who, by the reception of the broadcast, causes a programme to be transmitted to subscribers to a diffusion service, being a programme comprising a literary, dramatic or musical work, or an adaptation of such a work, or an artistic work, or a cinematograph film, shall be in the like position, in any proceedings for infringement of the copyright (if any) in the work or film, as if he had been the holder of a licence granted by the owner of that copyright to include the work, adaptation or film in any programme caused to be transmitted by him to subscribers to that service by the reception of the broadcast.
- (4) If, in the circumstances mentioned in either of the two last preceding subsections, the person causing the cinematograph film to be seen or heard, or the programme to be transmitted, as the case may be, infringed the copyright in question, by reason that the broadcast was not an authorised broadcast,—
- (a) no proceedings shall be brought against that person under this Act in respect of his infringement of that copyright, but
 - (b) it shall be taken into account in assessing damages in any proceedings against the Corporation or the Authority, as the case may be, in respect of that copyright, in so far as that copyright was infringed by them in making the broadcast.
- (5) For the purposes of this section, a broadcast shall be taken, in relation to a work or cinematograph film, to be an authorised broadcast if, but only if, it is made by, or with the licence of, the owner of the copyright in the work or film.

41 Use of copyright material for education

- (1) Where copyright subsists in a literary, dramatic, musical or artistic work, the copyright shall not be taken to be infringed by reason only that the work is reproduced, or an adaptation of the work is made or reproduced,—

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- (a) in the course of instruction, whether at a school or elsewhere, where the reproduction or adaptation is made by a teacher or pupil otherwise than by the use of a duplicating process, or
 - (b) as part of the questions to be answered in an examination, or in an answer to such a question.
- (2) Nothing in the preceding subsection shall apply to the publication of a work or of an adaptation of a work; and, for the purposes of section five of this Act, the fact that to a person's knowledge the making of an article would have constituted an infringement of copyright but for the preceding subsection shall have the like effect as if, to his knowledge, the making of it had constituted such an infringement.
- (3) For the avoidance of doubt it is hereby declared that, where a literary, dramatic or musical work—
- (a) is performed in class, or otherwise in the presence of an audience, and
 - (b) is so performed in the course of the activities of a school, by a person who is a teacher in, or a pupil in attendance at, the school,
- the performance shall not be taken for the purposes of this Act to be a performance in public if the audience is limited to persons who are teachers in, or pupils in attendance at, the school, or are otherwise directly connected with the activities of the school.
- (4) For the purposes of the last preceding subsection a person shall not be taken to be directly connected with the activities of a school by reason only that he is a parent or guardian of a pupil in attendance at the school.
- (5) The two last preceding subsections shall apply in relation to sound recordings, cinematograph films and television broadcasts as they apply in relation to literary, dramatic and musical works, as if any reference to performance were a reference to the act of causing the sounds or visual images in question to be heard or seen.
- (6) Nothing in this section shall be construed—
- (a) as extending the operation of any provision of this Act as to the acts restricted by copyright of any description, or
 - (b) as derogating from the operation of any exemption conferred by any provision of this Act other than this section.
- (7) In this section “school ”—
- (a) in relation to England and Wales, has the same meaning as in the Education Act, 1944 ;
 - (b) in relation to Scotland, has the same meaning as in the Education (Scotland) Act, 1946, except that it includes an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937; and
 - (c) in relation to Northern Ireland, has the same meaning as in the Education Act (Northern Ireland), 1947;
- and “duplicating process ” means any process involving the use of an appliance for producing multiple copies.

42 Special provisions as to public records

- (1) Where any work in which copyright subsists, or a reproduction of any such work, is comprised in—

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- (a) any records belonging to Her Majesty which are under the charge and superintendence of the Master of the Rolls by virtue of an Order in Council under section two of the Public Record Office Act, 1838, and are open to public inspection in accordance with rules made under that Act, or
- (b) any public records to which the Public Records Act (Northern Ireland), 1923, applies, being records which are open to public inspection in accordance with rules made under that Act,

the copyright in the work is not infringed by the making, or the supplying to any person, of any reproduction of the work by or under the direction of any officer appointed under the said Act of 1838 or the said Act of 1923, as the case may be.

- (2) In the preceding subsection “records” —
 - (a) in paragraph (a) of that subsection has the same meaning as in the Public Record Office Act, 1838 ;
 - (b) in paragraph (b) of that subsection has the same meaning as in the Public Records Act (Northern Ireland), 1923.
- (3) Any reference in this section to the Public Records Act (Northern Ireland), 1923, shall be construed as including a reference to that Act as for the time being amended or re-enacted (with or without modifications) by any enactment of the Parliament of Northern Ireland.

43 False attribution of authorship

- (1) The restrictions imposed by this section shall have effect in relation to literary, dramatic, musical or artistic works; and any reference in this section to a work shall be construed as a reference to such a work.
- (2) A person (in this subsection referred to as “the offender”) contravenes those restrictions as respects another person if, without the licence of that other person, he does any of the following acts in the United Kingdom, that is to say, he—
 - (a) inserts or affixes that other person's name in or on a work of which that person is not the author, or in or on a reproduction of such a work, in such a way as to imply that the other person is the author of the work, or
 - (b) publishes, or sells or lets for hire, or by way of trade offers or exposes for sale or hire, or by way of trade exhibits in public, a work in or on which the other person's name has been so inserted or affixed, if to the offender's knowledge that person is not the author of the work, or
 - (c) does any of the acts mentioned in the last preceding paragraph in relation to, or distributes, reproductions of a work, being reproductions in or on which the other person's name has been so inserted or affixed, if to the offender's knowledge that person is not the author of the work, or
 - (d) performs in public, or broadcasts, a work of which the other person is not the author, as being a work of which he is the author, if to the offender's knowledge that person is not the author of the work.
- (3) The last preceding subsection shall apply where, contrary to the fact, a work is represented as being an adaptation of the work of another person as it applies where a work is so represented as being the work of another person.
- (4) In the case of an artistic work which has been altered after the author parted with the possession of it, the said restrictions are contravened, in relation to the author, by a person who in the United Kingdom, without the licence of the author,—

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- (a) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire the work as so altered, as being the unaltered work of the author, or
- (b) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire a reproduction of the work as so altered, as being a reproduction of the unaltered work of the author,

if to his knowledge it is not the unaltered work, or, as the case may be, a reproduction of the unaltered work, of the author.

- (5) The three last preceding subsections shall apply with respect to anything done in relation to another person after that person's death, as if any reference to that person's licence were a reference to a licence given by him or by his personal representatives:

Provided that nothing in those subsections shall apply to anything done in relation to a person more than twenty years after that person's death.

- (6) In the case of an artistic work in which copyright subsists, the said restrictions are also contravened, in relation to the author of the work, by a person who in the United Kingdom—

- (a) publishes, or sells or lets for hire, or by way of trade offers or exposes for sale or hire, or by way of trade exhibits in public, a reproduction of the work, as being a reproduction made by the author of the work, or
- (b) distributes reproductions of the work as being reproductions made by the author of the work,

if (in any such case) the reproduction or reproductions was or were to his knowledge not made by the author.

- (7) The preceding provisions of this section shall apply (with the necessary modifications) with respect to acts done in relation to two or more persons in connection with the same work.

- (8) The restrictions imposed by this section shall not be enforceable by any criminal proceedings; but any contravention of those restrictions, in relation to a person, shall be actionable at his suit, or, if he is dead, at the suit of his personal representatives, as a breach of statutory duty.

- (9) Any damages recovered under this section by personal representatives, in respect of a contravention committed in relation to a person after his death, shall devolve as part of his estate, as if the right of action had subsisted and had been vested in him immediately before his death.

- (10) Nothing in this section shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than by virtue of this section:

Provided that this subsection shall not be construed as requiring any damages recovered by virtue of this section to be disregarded in assessing damages in any proceedings instituted otherwise than by virtue of this section and arising out of the same transaction.

- (11) In this section “name ” includes initials or a monogram.

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44 Amendments of Registered Designs Act, 1949

(1) In section six of the Registered Designs Act, 1949, (under which the disclosure of a design in certain circumstances is not to be a reason, for refusing registration), the following subsections shall be inserted after subsection (3):—

“(4) Where copyright under the Copyright Act, 1956, subsists in an artistic work, and an application is made by, or with the consent of, the owner of that copyright for the registration of a corresponding design, that design shall not be treated for the purposes of this Act as being other than new or original by reason only of any use previously made of the artistic work, unless—

- (a) the previous use consisted of or included the sale, letting for hire, or offer for sale or hire of articles to which the design in question (or a design differing from it only as mentioned in subsection (2) of section one of this Act) had been applied industrially, other than articles of a description specified in rules made under subsection (4) of section one of this Act, and
- (b) that previous use was made by, or with the consent of, the owner of the copyright in the artistic work.

(5) Any rules made by virtue of subsection (5) of section ten of the Copyright Act, 1956 (which relates to rules for determining the circumstances in which a design is to be taken to be applied industrially) shall apply for the purposes of the last foregoing subsection.”

(2) The following subsection shall be added at the end of section eight of the said Act of 1949 (which relates to the period of copyright in registered designs):—

“(3) Where in the case of a registered design it is shown—

- (a) that the design, at the time when it was registered, was a corresponding design in relation to an artistic work in which copyright subsisted under the Copyright Act, 1956 ;
- (b) that, by reason of a previous use of that artistic work, the design would not have been registrable under this Act but for subsection (4) of section six of this Act; and
- (c) that the copyright in that work under the Copyright Act, 1956, expired before the date of expiry of the copyright in the design,

the copyright in the design shall, notwithstanding anything in this section, be deemed to have expired at the same time as the copyright in the artistic work, and shall not be renewable after that time.”

(3) In section eleven of the said Act of 1949 (which relates to cancellation of the registration of designs), the following subsection shall be inserted after subsection (2):—

“(2A) At any time after a design has been registered, any person interested may apply to the registrar for the cancellation of the registration of the design on the grounds—

- (a) that the design, at the time when it was registered, was a corresponding design in relation to an artistic work in which copyright subsisted under the Copyright Act, 1956;
- (b) that, by reason of a previous use of that artistic work, the design would not have been registrable under this Act but for subsection (4) of section six of this Act; and

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- (c) that the copyright in that work under the Copyright Act, 1956, has expired ;
and the registrar may make such order on the application as he thinks fit.”
- (4) In subsection (3) of the said section eleven, for the words “the last foregoing subsection ” there shall be substituted the words “either of the two last foregoing subsections ”.
- (5) In subsection (1) of section forty-four of the said Act of 1949 (which relates to the interpretation of that Act)—
- (a) after the definition of “article ” there shall be inserted the words " ' artistic work ' has the same meaning as in the Copyright Act, 1956 "; and
 - (b) after the definition of “copyright” there shall be inserted the words " ' corresponding design ' has the same meaning as in section ten of the Copyright Act, 1956 ".

45 Amendment of Dramatic and Musical Performers' Protection Act, 1925

In the Dramatic and Musical Performers' Protection Act, 1925,—

- (a) after section one there shall be inserted the two sections set out in Part I of the Sixth Schedule to this Act; and
- (b) after section three there shall be inserted the two sections set out in Part II of that Schedule;

and the provisions of that Act specified in Part III of that Schedule shall have effect subject to the amendments set out in relation thereto in the second column of the said Part III (being minor amendments of that Act and amendments consequential upon the insertion therein of the sections referred to in paragraphs (a) and (b) of this section).

46 Savings

- (1) Any rights conferred on universities and colleges by the Copyright Act, 1775, which continued to subsist in accordance with section thirty-three of the Copyright Act, 1911, notwithstanding the repeal of the said Act of 1775, shall continue to subsist in accordance with the said Act of 1775 notwithstanding any repeal effected by this Act:

Provided that no proceedings shall be brought under the Copyright Act, 1775, but the provisions of Part III of this Act shall apply for the enforcement of those rights as if they were copyright subsisting by virtue of this Act.
- (2) Nothing in this Act shall affect any right or privilege of the Crown subsisting otherwise than by virtue of an enactment; and nothing in this Act shall affect any right or privilege of the Crown or of any other person under any enactment (including any enactment of the Parliament of Northern Ireland), except in so far as that enactment is expressly repealed, amended or modified by this Act.
- (3) Nothing in this Act shall affect the right of the Crown or of any person deriving title from the Crown to sell, use or otherwise deal with articles forfeited under the laws relating to customs or excise, including any article so forfeited by virtue of this Act or of any enactment repealed by this Act.
- (4) Nothing in this Act shall affect the operation of any rule of equity relating to breaches of trust or confidence.

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- (5) Subject to the preceding provisions of this section, no copyright, or right in the nature of copyright, shall subsist otherwise than by virtue of this Act or of some other enactment in that behalf.

47 General provisions as to Orders in Council, regulations, rules and orders, and as to Board of Trade

- (1) Any power to make regulations, rules or orders under this Act shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing—
- (a) any Order in Council or regulations made under this Act, or
 - (b) any rules made by the Lord Chancellor under the Fourth Schedule to this Act,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any Order in Council, or other order, made under any of the preceding provisions of this Act may be varied or revoked by a subsequent Order in Council or order made thereunder.
- (4) Where a power to make regulations or rules is conferred by any provision of this Act, regulations or rules under that power may be made either as respects all, or as respects any one or more, of the matters to which the provision relates; and different provision may be made by any such regulations or rules as respects different classes of cases to which the regulations or rules apply.
- (5) Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board of Trade, any Minister of State with duties concerning the affairs of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.
- (6) In this section “order ” does not include an order of a court or of the tribunal.

48 Interpretation

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—
- “adaptation ”, in relation to a literary, dramatic or musical work, has the meaning assigned to it by section two of this Act;
 - “artistic work ” has the meaning assigned to it by section three of this Act;
 - “assignment ”, in relation to Scotland, means an assignation ;
 - “building ” includes any structure ;
 - “cinematograph film ” has the meaning assigned to it by section thirteen of this Act;
 - “construction ” includes erection, and references to reconstruction shall be construed accordingly;
 - “the Corporation ” and “the Authority ” have the meanings assigned to them by section fourteen of this Act;
 - “country ” includes any territory;

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“dramatic work ” includes a choreographic work or entertainment in dumb show if reduced to writing in the form in which the work or entertainment is to be presented, but does not include a cinematograph film, as distinct from a scenario or script for a cinematograph film;

“drawing ” includes any diagram, map, chart or plan;

“engraving ” includes any etching, lithograph, woodcut, print or similar work, not being a photograph;

“future copyright ” and “prospective owner ” have the meanings assigned to them by section thirty-seven of this Act;

“judicial proceeding ” means a proceeding before any court, tribunal or person having by law power to hear, receive and examine evidence on oath ;

“literary work ” includes any written table or compilation;

“manuscript ”, in relation to a work, means the original document embodying the work, whether written by hand or not;

“performance ” includes delivery, in relation to lectures, addresses, speeches and sermons, and in general, subject to the provisions of subsection (5) of this section, includes any mode of visual or acoustic presentation, including any such presentation by the operation of wireless telegraphy apparatus, or by the exhibition of a cinematograph film, or by the use of a record, or by any other means, and references to performing a work or an adaptation of a work shall be construed accordingly;

“photograph ” means any product of photography or of any process akin to photography, other than a part of a cinematograph film, and “author ”, in relation to a photograph, means the person who, at the time when the photograph is taken, is the owner of the material on which it is taken ;

“qualified person ” has the meaning assigned to it by section one of this Act;

“record ” means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable (with or without the aid of some other instrument) of being automatically reproduced therefrom, and references to a record of a work or other subject-matter are references to a record (as herein defined) by means of which it can be performed;

“reproduction ”, in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or of a cinematograph film, and, in the case of an artistic work, includes a version produced by converting the work into a three-dimensional form, or, if it is in three dimensions, by converting it into a two-dimensional form, and references to reproducing a work shall be construed accordingly;

“sculpture ” includes any cast or model made for purposes of sculpture;

“sound recording ” has the meaning assigned to it by section twelve of this Act;

“sufficient acknowledgment ” has the meaning assigned to it by section six of this Act;

“television broadcast ” and “sound broadcast ” have the meanings assigned to them by section fourteen of this Act;

“wireless telegraphy apparatus ” has the same meaning as in the Wireless Telegraphy Act, 1949 ;

“work of joint authorship ” has the meaning assigned to it by section eleven of this Act;

“writing ” includes any form of notation, whether by hand or by printing, typewriting or any similar process.

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- (2) References in this Act to broadcasting are references to broadcasting by wireless telegraphy (within the meaning of the Wireless Telegraphy Act, 1949), whether by way of sound broadcasting or of television.
- (3) References in this Act to the transmission of a work or other subject-matter to subscribers to a diffusion service are references to the transmission thereof in the course of a service of distributing broadcast programmes, or other programmes (whether provided by the person operating the service or other persons), over wires, or other paths provided by a material substance, to the premises of subscribers to the service; and for the purposes of this Act, where a work or other subject-matter is so transmitted,—
- (a) the person operating the service (that is to say, the person who, in the agreements with subscribers to the service, undertakes to provide them with the service, whether he is the person who transmits the programmes or not) shall be taken to be the person causing the work or other subject-matter to be so transmitted, and
 - (b) no person, other than the person operating the service, shall be taken to be causing it to be so transmitted, notwithstanding that he provides any facilities for the transmission of the programmes:

Provided that, for the purposes of this subsection, and of references to which this subsection applies, no account shall be taken of a service of distributing broadcast or other programmes, where the service is only incidental to a business of keeping or letting premises where persons reside or sleep, and is operated as part of the amenities provided exclusively or mainly for residents or inmates therein.

- (4) References in this Act to the doing of any act by the reception of a television broadcast or sound broadcast made by the Corporation or the Authority are references to the doing of that act by means of receiving the broadcast either—
- (a) from the transmission whereby the broadcast is made by the Corporation or the Authority, as the case may be, or
 - (b) from a transmission made by the Corporation or the Authority, as the case may be, otherwise than by way of broadcasting, but simultaneously with the transmission mentioned in the preceding paragraph,

whether (in either case) the reception of the broadcast is directly from the transmission in question or from a re-transmission thereof made by any person from any place, whether in the United Kingdom or elsewhere; and in this subsection “re-transmission” means any re-transmission, whether over paths provided by a material substance or not, including any re-transmission made by making use of any record, print, negative, tape or other article on which the broadcast in question has been recorded.

- (5) For the purposes of this Act, broadcasting, or the causing of a work or other subject-matter to be transmitted to subscribers to a diffusion service, shall not be taken to constitute performance, or to constitute causing visual images or sounds to be seen or heard; and where visual images or sounds are displayed or emitted by any receiving apparatus, to which they are conveyed by the transmission of electromagnetic signals (whether over paths provided by a material substance or not),—
- (a) the operation of any apparatus whereby the signals are transmitted, directly or indirectly, to the receiving apparatus shall not be taken to constitute performance or to constitute causing the visual images or sounds to be seen or heard ; but

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- (b) in so far as the display or emission of the images or sounds constitutes a performance, or causes them to be seen or heard, the performance, or the causing of the images or sounds to be seen or heard, as the case may be, shall be taken to be effected by the operation of the receiving apparatus.
- (6) Without prejudice to the last preceding subsection, where a work or an adaptation of a work is performed, or visual images or sounds are caused to be seen or heard, by the operation of any apparatus to which this subsection applies, being apparatus provided by or with the consent of the occupier of the premises where the apparatus is situated, the occupier of those premises shall, for the purposes of this Act, be taken to be the person giving the performance, or causing the images or sounds to be seen or heard, whether he is the person operating the apparatus or not.

This subsection applies to any such receiving apparatus as is mentioned in the last preceding subsection, and to any apparatus for reproducing sounds by the use of a record.

- (7) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

49 Supplementary provisions as to interpretation

- (1) Except in so far as the context otherwise requires, any reference in this Act to the doing of an act in relation to a work or other subject-matter shall be taken to include a reference to the doing of that act in relation to a substantial part thereof, and any reference to a reproduction, adaptation or copy of a work, or a record embodying a sound recording, shall be taken to include a reference to a reproduction, adaptation or copy of a substantial part of the work, or a record embodying a substantial part of the sound recording, as the case may be:

Provided that, for the purposes of the following provisions of this Act, namely subsections (1) and (2) of section two, subsections (2) and (3) of section three, subsections (2) and (3) of section thirty-three, section thirty-eight, and subsections (2) to (4) of section thirty-nine, this subsection shall not affect the construction of any reference to the publication, or absence of publication, of a work.

- (2) With regard to publication, the provisions of this subsection shall have effect for the purposes of this Act, that is to say—
- (a) the performance, or the issue of records, of a literary, dramatic or musical work, the exhibition of an artistic work, the construction of a work of architecture, and the issue of photographs or engravings of a work of architecture or of a sculpture, do not constitute publication of the work;
 - (b) except in so far as it may constitute an infringement of copyright, or a contravention of any restriction imposed by section forty-three of this Act, a publication which is merely colourable, and not intended to satisfy the reasonable requirements of the public, shall be disregarded;
 - (c) subject to the preceding paragraphs, a literary, dramatic or musical work, or an edition of such a work, or an artistic work, shall be taken to have been published if, but only if, reproductions of the work or edition have been issued to the public;
 - (d) a publication in the United Kingdom, or in any other country, shall not be treated as being other than the first publication by reason only of an earlier

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publication elsewhere, if the two publications took place within a period of not more than thirty days ;

and in determining, for the purposes of paragraph (c) of this subsection, whether reproductions of a work or edition have been issued to the public, the preceding subsection shall not apply.

- (3) In determining for the purposes of any provision of this Act—
- (a) whether a work or other subject-matter has been published, or
 - (b) whether a publication of a work or other subject-matter was the first publication thereof, or
 - (c) whether a work or other subject-matter was published or otherwise dealt with in the lifetime of a person,

no account shall be taken of any unauthorised publication or of the doing of any other unauthorised act; and (subject to subsection (7) of section seven of this Act) a publication or other act shall for the purposes of this subsection be taken to have been unauthorised—

- (i) if copyright subsisted in the work or other subject-matter and the act in question was done otherwise than by, or with the licence of, the owner of the copyright, or
- (ii) if copyright did not subsist in the work or other subject matter, and the act in question was done otherwise than by, or with the licence of, the author (or, in the case of a sound recording or a cinematograph film, or an edition of a literary, dramatic or musical work, the maker or publisher, as the case may be) or persons lawfully claiming under him:

Provided that nothing in this subsection shall affect any provisions of this Act as to the acts restricted by any copyright or as to acts constituting infringements of copyrights, or any provisions of section forty-three of this Act.

- (4) References in this Act to the time at which, or the period during which, a literary, dramatic or musical work was made are references to the time or period at or during which it was first reduced to writing or some other material form.
- (5) In the case of any copyright to which (whether in consequence of a partial assignment or otherwise) different persons are entitled in respect of the application of the copyright—
- (a) to the doing of different acts or classes of acts, or
 - (b) to the doing of one or more acts or classes of acts in different countries or at different times,

the owner of the copyright, for any purpose of this Act, shall be taken to be the person who is entitled to the copyright in respect of its application to the doing of the particular act or class of acts, or, as the case may be, to the doing thereof in the particular country or at the particular time, which is relevant to the purpose in question; and, in relation to any future copyright to which different persons are prospectively entitled, references in this Act to the prospective owner of the copyright shall be construed accordingly.

- (6) Without prejudice to the generality of the last preceding subsection, where under any provision of this Act a question arises whether an article of any description has been imported or sold, or otherwise dealt with, without the licence of the owner of any copyright, the owner of the copyright, for the purpose of determining that question, shall be taken to be the person entitled to the copyright in respect of its application to the making of articles of that description in the country into which the article was imported, or, as the case may be, in which it was sold or otherwise dealt with.

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- (7) Where the doing of anything is authorised by the grantee of a licence, or a person deriving title from the grantee, and it is within the terms (including any implied terms) of the licence for him to authorise it, it shall for the purposes of this Act be taken to be done with the licence of the grantor and of every other person (if any) upon whom the licence is binding.
- (8) References in this Act to deriving title are references to deriving title either directly or indirectly.
- (9) Where, in the case of copyright of any description,—
- (a) provisions contained in this Act specify certain acts as being restricted by the copyright, or as constituting infringements thereof, and
 - (b) other provisions of this Act specify certain acts as not constituting infringements of the copyright,
- the omission or exclusion of any matter from the latter provisions shall not be taken to extend the operation of the former provisions.
- (10) Any reference in this Act to countries to which a provision of this Act extends includes a country to which that provision extends subject to exceptions, modifications or additions.

50 Transitional provisions, and repeals

- (1) The transitional provisions contained in the Seventh Schedule to this Act shall have effect for the purposes of this Act; and the provisions of the Eighth Schedule to this Act shall have effect in accordance with those transitional provisions.
- (2) Subject to the said transitional provisions, the enactments specified in the Ninth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

51 Short title, commencement and extent

- (1) This Act may be cited as the Copyright Act, 1956.
- (2) This Act shall come into operation on such day as the Board of Trade may by order appoint; and different days may be appointed for the purposes of different provisions of this Act, and, for the purposes of any provision of this Act whereby enactments are repealed, different days may be appointed for the operation of the repeal in relation to different enactments, including different enactments contained in the same Act.
- (3) It is hereby declared that this Act extends to Northern Ireland.