
STATUTORY INSTRUMENTS

2014 No. 1372

The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014

Libraries and archives: amendments to Part 2 of the Act

6. In Schedule 2, after paragraph 6B(1), insert—

“Libraries and educational establishments etc: making recordings of performances available through dedicated terminals

6C.—(1) The rights conferred by this Chapter in a recording of a performance are not infringed by an institution specified in sub-paragraph (2) communicating the recording to the public or making it available to the public by means of a dedicated terminal on its premises, if the conditions in sub-paragraph (3) are met.

(2) The institutions are—

- (a) a library,
- (b) an archive,
- (c) a museum, and
- (d) an educational establishment.

(3) The conditions are that the recording or a copy of the recording—

- (a) has been lawfully acquired by the institution,
- (b) is communicated or made available to individual members of the public for the purposes of research or private study, and
- (c) is communicated or made available in compliance with any purchase or licensing terms to which the recording is subject.

Copying by librarians: supply of single copies to other libraries

6D.—(1) A librarian may, if the conditions in sub-paragraph (2) are met, make a single copy of the whole or part of a published recording of a performance and supply it to another library, without infringing any rights conferred by this Chapter in the recording.

(2) The conditions are—

- (a) the copy is supplied in response to a request from a library which is not conducted for profit, and
- (b) at the time of making the copy the librarian does not know, or could not reasonably find out, the name and address of a person entitled to authorise the making of a copy of the recording.

(1) Paragraph 6B was inserted into Schedule 2 by S.I. 1996/2967, regulation 20(3), was amended by S.I. 2006/18, paragraph 9 of the Schedule and is prospectively amended by section 43 of the Digital Economy Act 2010 (c.24).

(3) Where a library makes a charge for supplying a copy under this paragraph, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(4) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.

Copying by librarians etc: replacement copies of recordings

6E.—(1) A librarian, archivist or curator of a library, archive or museum may, without infringing any rights conferred by this Chapter, make a copy of a recording of a performance in that institution’s permanent collection—

- (a) in order to preserve or replace that recording in that collection, or
- (b) where a recording in the permanent collection of another library, archive or museum has been lost, destroyed or damaged, in order to replace the recording in the collection of that other library, archive or museum,

provided that the conditions in sub-paragraphs (2) and (3) are met.

(2) The first condition is that the recording is—

- (a) included in the part of the collection kept wholly or mainly for the purposes of reference on the institution’s premises,
- (b) included in a part of the collection not accessible to the public, or
- (c) available on loan only to other libraries, archives or museums.

(3) The second condition is that it is not reasonably practicable to purchase a copy of the recording to achieve either of the purposes mentioned in sub-paragraph (1).

(4) The reference in sub-paragraph (1)(b) to a library, archive or museum is to a library, archive or museum which is not conducted for profit.

(5) Where an institution makes a charge for supplying a copy to another library, archive or museum under sub-paragraph (1)(b), the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(6) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.

Copying by librarians: single copies of published recordings

6F.—(1) A librarian of a library which is not conducted for profit may, if the conditions in sub-paragraph (2) are met, make and supply a single copy of a reasonable proportion of a published recording without infringing any of the rights in the recording conferred by this Chapter.

(2) The conditions are—

- (a) the copy is supplied in response to a request from a person who has provided the librarian with a declaration in writing which includes the information set out in sub-paragraph (3), and
- (b) the librarian is not aware that the declaration is false in a material particular.

(3) The information which must be included in the declaration is—

- (a) the name of the person who requires the copy and the material which that person requires,
 - (b) a statement that the person has not previously been supplied with a copy of that material by any library,
 - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person, and
 - (d) a statement that to the best of the person's knowledge, no other person with whom the person works or studies has made, or intends to make, at or about the same time as the person's request, a request for substantially the same material for substantially the same purpose.
- (4) Where a library makes a charge for supplying a copy under this paragraph, the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (5) Where a person ("P") makes a declaration under this paragraph that is false in a material particular and is supplied with a copy of a recording which would have been an illicit recording if made by P—
- (a) P is liable for infringement of the rights conferred by this Chapter as if P had made the copy, and
 - (b) the copy supplied to P is to be treated as an illicit recording for all purposes.
- (6) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.

Copying by librarians or archivists: single copies of unpublished recordings

- 6G.**—(1) A librarian or archivist may make and supply a single copy of the whole or part of a recording without infringing any of the rights conferred by this Chapter in the recording, provided that—
- (a) the copy is supplied in response to a request from a person who has provided the librarian or archivist with a declaration in writing which includes the information set out in sub-paragraph (2), and
 - (b) the librarian or archivist is not aware that the declaration is false in a material particular.
- (2) The information which must be included in the declaration is—
- (a) the name of the person who requires the copy and the material which that person requires,
 - (b) a statement that the person has not previously been supplied with a copy of that material by any library or archive, and
 - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.
- (3) But the rights conferred by this Chapter are infringed if—
- (a) the recording had been published or communicated to the public before the date it was deposited in the library or archive, or
 - (b) the rights owner has prohibited the copying of the recording,

and at the time of making the copy the librarian or archivist is, or ought to be, aware of that fact.

(4) Where a library or archive makes a charge for supplying a copy under this paragraph, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(5) Where a person (“P”) makes a declaration under this paragraph that is false in a material particular and is supplied with a copy of a recording which would have been an illicit recording if made by P—

- (a) P is liable for infringement of the rights conferred by this Chapter as if P had made the copy, and
- (b) the copy supplied to P is to be treated as an illicit recording for all purposes.

Paragraphs 6B to 6G: interpretation

6H. Expressions used in paragraphs 6B to 6G have the same meaning as in sections 40A to 43.”.