[GB] Government Implements Copyright Directive

IRIS 2004-1:1/26

Tony Prosser
University of Bristol Law School

The UK Government has (somewhat belatedly) implemented the Directive of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (see IRIS 2001-5: 3 and IRIS 2003-8: 6). Implementation has taken place through the Copyright and Related Rights Regulations 2003, which amend the Copyright, Designs and Patents Act 1988. The Regulations came into effect on 31 October 2003.

The Regulations are long and complex; the main effects are as follows. They redefine the meaning of "broadcast" (to which copyright protection applies) in section 6 of the Act, bringing within it cable programmes sent for simultaneous reception by members of the public or at a time determined by the person making the transmission for presentation to the public, and by stating that, subject to some exceptions, internet transmissions are not broadcasts for the purposes of the Act.

Secondly, the Regulations redefine in section 20 of the Act the exclusive right granted to the copyright owner to control broadcasting of a work or including it in a cable service to provide more clearly that the owner has the right to control any communication to the public by electronic transmission, including by a broadcast and also by making available works to the public in such a place and at a time individually chosen by them. A new exclusive right is given to performers to control the making available to the public in this way of their performances.

Thirdly, the Regulations amend the Act to comply with the Directive's regime of compulsory and permitted areas for exceptions to copyright; for example, relating to temporary copies, testing of computer programmes, and criticism, review and news reporting. An important change introduced by them is that the fair dealing exception to copyright infringement is abolished for commercial research.

Fourthly, the Regulations amend criminal liability, most notably creating a new criminal offence where a person makes infringing copies of a work and wilfully communicates them to the public; liability is also created for the making available of illicit recordings of performances which wilfully infringes a performer's making available right. In both cases the communication must be on a scale that is prejudicial to the rights owner or done in the course of a business. These new offences are of particular importance in relation to the unauthorised downloading

© European Audiovisual Observatory (Council of Europe) 2026

of music and films from the Internet.

The Regulations also make new provision against the circumvention of technical protection measures to protect against copying, including creating a new criminal offence of manufacturing or dealing in a device designed to circumvent such measures, or of offering a service to facilitate circumvention.

The Copyright and Related Rights Regulations 2003, Statutory Instrument 2003 No 2498

http://www.hmso.gov.uk/si/si2003/20032498.htm

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026