[GB] United Kingdom adapts existing copyright law to allow greater fair dealing and flexibility for the digital age

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On 1 October 2014, changes to UK copyright law came into effect. A series of Statutory Instruments have been given effect that in turn amend the relevant sections of the Copyright, Designs and Patents Act 1988 (1998 Act).

The Copyright and Rights in Performances (Quotation and Parody) Regulations 2014 amends section 30 of the 1988 Act so that fair dealing with a copyright work for the purposes of caricature, parody, or pastiche does not infringe copyright in the work. This means that one can use a sample of another person's work, e.g. song, music, film or artwork, without seeking permission or a licence, provided that the use is regarded as fair dealing. If the extent of the material used is regarded as outside the scope of fair dealing, then a licence or permission of the copyright owner will be required.

There is no statutory definition of 'fair dealing'. It will depend on all the facts and the circumstances and may include factors such as how the use of the work affects the original's market? Is the amount of copyrighted material reasonable and appropriate?

The amendments will not affect a copyright holder asserting moral rights, so if they consider that the pastiche, caricature or parody constitutes derogatory treatment then a remedy is available for such an abuse.

With regard to the use of quotation, before 1 October 2014 the use of quotation could only be allowed, without the copyright owner's permission, if it was for fair dealing, for criticism, review or news reporting. The change allows people the benefit of this copyright exception for other purposes, provided these are reasonable and fair. The application of this law is in line with fair dealing described above, so it would be unreasonable to quote all of another person's book, or very long sections, but only use what is fair and reasonable to illustrate the point you wish to make. Whilst the new amendment applies to all copyright work, including photographs, it will be difficult to see in practice how an entire photograph could be reproduced in its entirety under the fair dealing rules pertaining to quotations.

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Another change is implemented by The Copyright and Rights in Performances (Personal Copies for Private Use) Regulations 2014, which amends sections 28 and 296 of the 1988 Act. The amendments allow an individual, for their own use, to transfer material such as a book or film they have bought on one device, and transfer it to another device, for example, a CD to their MP3 Player. The consumer cannot make multiple copies for third parties and they must have purchased the material they are copying. A copyright owner can continue, however, to prevent copying by the application of copy-protection technology.

The remaining set of Regulations, namely The Copyright (Public Administration) Regulations 2014; The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014; The Copyright and Rights in Performances (Disability) Regulations in summary achieve the following changes to existing UK copyright law:

- Reasonable copying of sound recordings, films and broadcasts for non-commercial research and private study without seeking the permission of the copyright owner. Complete copying would not be considered reasonable, and the fair dealing principles as above would apply.

- Researchers will be allowed to text or data mine i.e. undertake computer-based analysis provided they have the right to access the material and the research is for non-commercial purposes.

- Schools and educational establishments will have greater flexibility to use copyrighted material for distance learning and displaying quotations and extracts without seeking permission from the copyright owner provided the use is fair and reasonable.

- Libraries, archives, museums and galleries will be allowed to copy all of their creative works in their collection for posterity, where it is not reasonably practicable to acquire a replacement item.

- Public bodies can make third party copyrighted material available online for wider viewing.

- Disabled persons may make a single copy of copyrighted material so they can access it on a device for their personal use. Further, charitable organisations may make multiple copies of a copyrighted material in order to make it accessible to disabled persons.

Where an existing licence between parties restricts use, then the new legislation will allow a licensee to use material in accordance with the new laws without being in breach of the agreement or having to seek amendment to the licence.

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The Copyright and Rights in Performances (Quotation and Parody) Regulations 2014

http://www.bailii.org/uk/legis/num_reg/2014/uksi_20142356_en_1.html

The Copyright and Rights in Performances (Personal Copies for Private Use) Regulations 2014

http://www.bailii.org/uk/legis/num_reg/2014/uksi_20142361_en_1.html

The Copyright (Public Administration) Regulations 2014

http://www.bailii.org/uk/legis/num_reg/2014/uksi_20141385_en_1.html

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

http://www.bailii.org/uk/legis/num_reg/2014/uksi_20141372_en_1.html

The Copyright and Rights in Performances (Disability) Regulations

http://www.bailii.org/uk/legis/num_reg/2014/uksi_20141384_en_1.html

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