

New Copyright Law: Effective from 31 October 2003

The Copyright and Related Rights Regulations 2003 (“Regulations”), come into force on 31 October 2003. The Regulations implement Directive 2001/29/EC and introduce a number of significant changes to UK copyright law. The substantial increase in the use of personal data and copyright materials by electronic transmissions especially over the Internet and by digital means,

has led to the uncontrolled copying and transmission of electronic articles, books, and journals resulting in severe financial implications for publishers and individual copyright owners. The Regulations aim to harmonise European legislation to control the explosive use of copyright materials in e-commerce and the information society.

Copyright

This article gives an overview of copyright law. It explains the main changes brought about by the Regulations and provides practical tips to copyright owners and users. Copyright in the UK arises automatically by an operation of law and there is no system of registration. Copyright protection can be afforded to various aspects of works such as literary, dramatic and artistic works, including, books, journals, computer programs and typographical arrangements of published works such as articles. For copyright to subsist in a work there has to be some element of originality. The test is the degree of skill, labour and judgement

expended by the author in the creation of the work. The author owns the copyright, unless the work was created during the course of his employment, in which case, the copyright belongs to his employer. A copyright owner has the right to stop a person infringing his work. Infringement of copyright includes copying, broadcasting, distributing or performing the whole or substantial part of a work without a licence or the consent of the copyright owner. The remedies available are damages (compensation for loss suffered) or an account of profit and/or delivery up or destruction of the infringing materials.

The Internet

The content of web pages are literary works and copyright subsists in those pages. Graphics are

artistic works. Sound files are sound recordings containing separate musical works. A copyright owner’s consent is required for each act of copying.

A New Copyright

- Copyright protection will now be afforded to copyright works *communicated to the public by electronic transmission or broadcasting*. Hence, a copyright owner can stop a substantial part of his work being communicated to the public by electronic

transmission, distribution or broadcast without a licence or his consent. This includes digital copying and contents of books, articles or graphics made available by “on demand” interactive services such as websites.

Further Changes

- Making temporary copies of copyright works, which are transient and incidental, like Internet browsing are permitted, provided you have authorised access. Temporary copies of computer programs or databases are restricted.
- The use of copyright works for commercial research is not permitted whether or not the

- The protection of “on demand” services is a major step forward for copyright owners. purposes provided there is sufficient acknowledgement.

- Restrictions on third parties to play or show TV or radio broadcasts in shops, offices or factories.
- Stricter controls to protect the *circumvention* of technical devices and services designed to protect technological measures, used by copyright owners. For example, the use of encryption, scrambling and other control mechanisms. Circumvention of such devices and services includes chipping of hardware, decrypting of video or versatile discs and hacking.

source is acknowledged. However, ‘fair dealing’ allows copying for non-commercial research

- Restrictions to prevent the alteration or removal of copyright notices.
- Non-exclusive licensees can now bring infringement actions for copyright infringement.

Practical Tips

Owners:

- Review current notices, terms and licences.
- Place copyright notices on all original texts, scripts, sketches and web pages.
- Use clearly drafted terms and conditions on websites.
- Have clear policies regarding copying and hypertext linking.
- Police against infringers.

Users:

- Obtain consents or licences.
- Check copyright notices on WebPages.
- Have you got the correct licences to undertake commercial research?
- Are you authorised to play the radio or TV in your office, foyer or factory? If not, obtain a licence from the Copyright Licensing Agency or other requisite body.

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