
Extracts from the Copyright, Designs and Patent Act 1988 [CDPA]

PART I COPYRIGHT

CHAPTER I SUBSISTENCE, OWNERSHIP AND DURATION OF COPYRIGHT

13 Duration of copyright in sound recordings and films

- (1) Copyright in a sound recording or film expires—
- (a) at the end of the period of 50 years from the end of the calendar year in which it is made, or
 - (b) if it is released before the end of that period, 50 years from the end of the calendar year in which it is released.
- (2) A sound recording or film is “released” when—
- (a) it is first published, broadcast or included in a cable programme service, or
 - (b) in the case of a film or film sound-track, the film is first shown in public;
- but in determining whether a work has been released no account shall be taken of any unauthorised act.

CHAPTER II RIGHTS OF COPYRIGHT OWNER

The acts restricted by copyright

16 The acts restricted by copyright in a work

- (1) The owner of the copyright in a work has, in accordance with the following provisions of this Chapter, the exclusive right to do the following acts in the United Kingdom—
- (a) to copy the work (see section 17);
 - (b) to issue copies of the work to the public (see section 18);
 - (c) to perform, show or play the work in public (see section 19);
 - (d) to broadcast the work or include it in a cable programme service (see section 20);

- (e) to make an adaptation of the work or do any of the above in relation to an adaptation (see section 21);
- and those acts are referred to in this Part as the “acts restricted by the copyright”.
- (2) Copyright in a work is infringed by a person who without the licence of the copyright owner does, or authorises another to do, any of the acts restricted by the copyright.
- (3) References in this Part to the doing of an act restricted by the copyright in a work are to the doing of it—
- (a) in relation to the work as a whole or any substantial part of it, and
 - (b) either directly or indirectly;
- and it is immaterial whether any intervening acts themselves infringe copyright.
- (4) This Chapter has effect subject to—
- (a) the provisions of Chapter III (acts permitted in relation to copyright works), and
 - (b) the provisions of Chapter VII (provisions with respect to copyright licensing).

19 Infringement by performance, showing or playing of work in public

- (1) The performance of the work in public is an act restricted by the copyright in a literary, dramatic or musical work.
- (2) In this Part “performance”, in relation to a work—
- (a) includes delivery in the case of lectures, addresses, speeches and sermons, and
 - (b) in general, includes any mode of visual or acoustic presentation, including presentation by means of a sound recording, film, broadcast or cable programme of the work.
- (3) The playing or showing of the work in public is an act restricted by the copyright in a sound recording, film, broadcast or cable programme.
- (4) Where copyright in a work is infringed by its being performed, played or shown in public by means of apparatus for receiving visual images or sounds conveyed by electronic means, the person by whom the visual images or sounds are sent, and in the case of a performance the performers, shall not be regarded as responsible for the infringement.

CHAPTER III
ACTS PERMITTED IN RELATION TO COPYRIGHT WORKS

72¹ Free public showing or playing of broadcast

(1) The showing or playing in public of a broadcast to an audience who have not paid for admission to the place where the broadcast is to be seen or heard does not infringe any copyright in—

- (a) the broadcast;
- (b) any sound recording (except so far as it is an excepted sound recording) included in it; or
- (c) any film included in it.

(1A) For the purposes of this Part an "excepted sound recording" is a sound recording -

- (a) whose author is not the author of the broadcast in which it is included; and
- (b) which is a recording of music with or without words spoken or sung.

(1B) Where by virtue of subsection (1) the copyright in a broadcast shown or played in public is not infringed, copyright in any excepted sound recording included in it is not infringed if the playing or showing of that broadcast in public -

- (a) forms part of the activities of an organisation that is not established or conducted for profit; or
- (b) is necessary for the purposes of -
 - (i) repairing equipment for the reception of broadcasts;
 - (ii) demonstrating that a repair to such equipment has been carried out; or
 - (iii) demonstrating such equipment which is being sold or let for hire or offered or exposed for sale or hire.

(2) The audience shall be treated as having paid for admission to a place -

- (a) if they have paid for admission to a place of which that place forms part; or
- (b) if goods or services are supplied at that place (or a place of which it forms part) -
 - (i) at prices which are substantially attributable to the facilities afforded for seeing or hearing the broadcast, or
 - (ii) at prices exceeding those usually charged there and which are partly attributable to those facilities.

¹ Revised ss.72(1A) & (1B) added, by SI 2003/2498.

- (3) The following shall not be regarded as having paid for admission to a place -
- (a) persons admitted as residents or inmates of the place;
 - (b) persons admitted 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 broadcasts is only incidental to the main purposes of the club or society.
- (4) Where the making of the broadcast was an infringement of the copyright in a sound recording or film, the fact that it was heard or seen in public by the reception of the broadcast shall be taken into account in assessing the damages for that infringement.

CHAPTER VII COPYRIGHT LICENSING

Licensing schemes and licensing bodies

116 Licensing schemes and licensing bodies

- (1) In this Part a “licensing scheme” means a scheme setting out—
- (a) the classes of case in which the operator of the scheme, or the person on whose behalf he acts, is willing to grant copyright licences, and
 - (b) the terms on which licences would be granted in those classes of case;

and for this purpose a “scheme” includes anything in the nature of a scheme, whether described as a scheme or as a tariff or by any other name.

(2) In this Chapter a “licensing body” means a society or other organisation which has as its main object, or one of its main objects, the negotiation or granting, either as owner or prospective owner of copyright or as agent for him, of copyright licences, and whose objects include the granting of licences covering works of more than one author.

(3) In this section “copyright licences” means licences to do, or authorise the doing of, any of the acts restricted by copyright.

(4) References in this Chapter to licences or licensing schemes covering works of more than one author do not include licences or schemes covering only—

- (a) a single collective work or collective works of which the authors are the same, or
- (b) works made by, or by employees of or commissioned by, a single individual, firm, company or group of companies.

For this purpose a group of companies means a holding company and its subsidiaries, within the meaning of section 736 of the [1985 c. 6.] Companies Act 1985.

References and applications with respect to licensing schemes

117 Licensing schemes to which ss. 118 to 123 apply

Sections 118 to 123 (references and applications with respect to licensing schemes) apply to—

(a) licensing schemes operated by licensing bodies in relation to the copyright in literary, dramatic, musical or artistic works or films (or film sound-tracks when accompanying a film) which cover works of more than one author, so far as they relate to licences for—

- (i) copying the work,
- (ii) performing, playing or showing the work in public, or
- (iii) broadcasting the work or including it in a cable programme service;

(b) all licensing schemes in relation to the copyright in sound recordings (other than film sound-tracks when accompanying a film), broadcasts or cable programmes, or the typographical arrangement of published editions; and

(c) all licensing schemes in relation to the copyright in sound recordings, films or computer programs so far as they relate to licences for the rental of copies to the public;

and in those sections “licensing scheme” means a licensing scheme of any of those descriptions.

118 Reference of proposed licensing scheme to tribunal

(1) The terms of a licensing scheme proposed to be operated by a licensing body may be referred to the Copyright Tribunal by an organisation claiming to be representative of persons claiming that they require licences in cases of a description to which the scheme would apply, either generally or in relation to any description of case.

(2) The Tribunal shall first decide whether to entertain the reference, and may decline to do so on the ground that the reference is premature.

(3) If the Tribunal decides to entertain the reference it shall consider the matter referred and make such order, either confirming or varying the proposed scheme, either generally or so far as it relates to cases of the description to which the reference relates, as the Tribunal may determine to be reasonable in the circumstances.

(4) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

119 Reference of licensing scheme to tribunal

(1) If while a licensing scheme is in operation a dispute arises between the operator of the scheme and—

(a) a person claiming that he requires a licence in a case of a description to which the scheme applies, or

(b) an organisation claiming to be representative of such persons,

that person or organisation may refer the scheme to the Copyright Tribunal in so far as it relates to cases of that description.

(2) A scheme which has been referred to the Tribunal under this section shall remain in operation until proceedings on the reference are concluded.

(3) The Tribunal shall consider the matter in dispute and make such order, either confirming or varying the scheme so far as it relates to cases of the description to which the reference relates, as the Tribunal may determine to be reasonable in the circumstances.

(4) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

120 Further reference of scheme to tribunal

(1) Where the Copyright Tribunal has on a previous reference of a licensing scheme under section 118 or 119, or under this section, made an order with respect to the scheme, then, while the order remains in force—

(a) the operator of the scheme,

(b) a person claiming that he requires a licence in a case of the description to which the order applies, or

(c) an organisation claiming to be representative of such persons,

may refer the scheme again to the Tribunal so far as it relates to cases of that description.

(2) A licensing scheme shall not, except with the special leave of the Tribunal, be referred again to the Tribunal in respect of the same description of cases—

(a) within twelve months from the date of the order on the previous reference, or

(b) if the order was made so as to be in force for 15 months or less, until the last three months before the expiry of the order.

(3) A scheme which has been referred to the Tribunal under this section shall remain in operation until proceedings on the reference are concluded.

(4) The Tribunal shall consider the matter in dispute and make such order, either confirming, varying or further varying the scheme so far as it relates to cases of

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

(5) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

121 Application for grant of licence in connection with licensing scheme

(1) A person who claims, in a case covered by a licensing scheme, that the operator of the scheme has refused to grant him or procure the grant to him of a licence in accordance with the scheme, or has failed to do so within a reasonable time after being asked, may apply to the Copyright Tribunal.

(2) A person who claims, in a case excluded from a licensing scheme, that the operator of the scheme either—

(a) has refused to grant him a licence or procure the grant to him of a licence, or has failed to do so within a reasonable time of being asked, and that in the circumstances it is unreasonable that a licence should not be granted, or

(b) proposes terms for a licence which are unreasonable,

may apply to the Copyright Tribunal.

(3) A case shall be regarded as excluded from a licensing scheme for the purposes of subsection (2) if—

(a) the scheme provides for the grant of licences subject to terms excepting matters from the licence and the case falls within such an exception, or

(b) the case is so similar to those in which licences are granted under the scheme that it is unreasonable that it should not be dealt with in the same way.

(4) If the Tribunal is satisfied that the claim is well-founded, it 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 as the Tribunal may determine to be applicable in accordance with the scheme or, as the case may be, to be reasonable in the circumstances.

(5) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

122 Application for review of order as to entitlement to licence

(1) Where the Copyright Tribunal has made an order under section 121 that a person is entitled to a licence under a licensing scheme, the operator of the scheme or the original applicant may apply to the Tribunal to review its order.

(2) An application shall not be made, except with the special leave of the Tribunal—

(a) within twelve months from the date of the order, or of the decision on a previous application under this section, or

(b) if the order was made so as to be in force for 15 months or less, or as a result of the decision on a previous application under this section is due to expire within 15 months of that decision, until the last three months before the expiry date.

(3) The Tribunal shall on an application for review confirm or vary its order as the Tribunal may determine to be reasonable having regard to the terms applicable in accordance with the licensing scheme or, as the case may be, the circumstances of the case.

123 Effect of order of tribunal as to licensing scheme

(1) A licensing scheme which has been confirmed or varied by the Copyright Tribunal—

(a) under section 118 (reference of terms of proposed scheme), or

(b) under section 119 or 120 (reference of existing scheme to Tribunal),

shall be in force or, as the case may be, remain in operation, so far as it relates to the description of case in respect of which the order was made, so long as the order remains in force.

(2) While the order is in force a person who in a case of a class to which the order applies—

(a) pays to the operator of the scheme any charges payable under the scheme in respect of a licence covering the case in question or, if the amount cannot be ascertained, gives an undertaking to the operator to pay them when ascertained, and

(b) complies with the other terms applicable to such a licence under the scheme,

shall be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence granted by the owner of the copyright in question in accordance with the scheme.

(3) The Tribunal may direct that the order, so far as it varies the amount of charges payable, has effect from a date before that on which it is made, but not earlier than the date on which the reference was made or, if later, on which the scheme came into operation.

If such a direction is made—

(a) any necessary repayments, or further payments, shall be made in respect of charges already paid, and

(b) the reference in subsection (2)(a) to the charges payable under the scheme shall be construed as a reference to the charges so payable by virtue of the order.

No such direction may be made where subsection (4) below applies.

(4) An order of the Tribunal under section 119 or 120 made with respect to a scheme which is certified for any purpose under section 143 has effect, so far as it varies the scheme by reducing the charges payable for licences, from the date on which the reference was made to the Tribunal.

(5) Where the Tribunal has made an order under section 121 (order as to entitlement to licence under licensing scheme) and the order remains in force, the person in whose favour the order is made shall if he—

(a) pays to the operator of the scheme any charges payable in accordance with the order or, if the amount cannot be ascertained, gives an undertaking to pay the charges when ascertained, and

(b) complies with the other terms specified in the order,

be in the same position as regards infringement of copyright 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 specified in the order.

References and applications with respect to licensing by licensing bodies

124 Licences to which ss. 125 to 128 apply

Sections 125 to 128 (references and applications with respect to licensing by licensing bodies) apply to the following descriptions of licence granted by a licensing body otherwise than in pursuance of a licensing scheme—

(a) licences relating to the copyright in literary, dramatic, musical or artistic works or films (or film sound-tracks when accompanying a film) which cover works of more than one author, so far as they authorise—

(i) copying the work,

(ii) performing, playing or showing the work in public, or

(iii) broadcasting the work or including it in a cable programme service;

(b) any licence relating to the copyright in a sound recording (other than a film sound-track when accompanying a film), broadcast or cable programme, or the typographical arrangement of a published edition; and

(c) all licences in relation to the copyright in sound recordings, films or computer programs so far as they relate to the rental of copies to the public;

and in those sections a “licence” means a licence of any of those descriptions.

125 Reference to tribunal of proposed licence

- (1) The terms on which a licensing body proposes to grant a licence may be referred to the Copyright Tribunal by the prospective licensee.
- (2) The Tribunal shall first decide whether to entertain the reference, and may decline to do so on the ground that the reference is premature.
- (3) If the Tribunal decides to entertain the reference it shall consider the terms of the proposed licence and make such order, either confirming or varying the terms, as it may determine to be reasonable in the circumstances. (4) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

126 Reference to tribunal of expiring licence

- (1) A licensee under a licence which is due to expire, by effluxion of time or as a result of notice given by the licensing body, may apply to the Copyright Tribunal on the ground that it is unreasonable in the circumstances that the licence should cease to be in force.
- (2) Such an application may not be made until the last three months before the licence is due to expire.
- (3) A licence in respect of which a reference has been made to the Tribunal shall remain in operation until proceedings on the reference are concluded.
- (4) If the Tribunal finds the application well-founded, it shall make an order declaring that the licensee shall continue to be entitled to the benefit of the licence on such terms as the Tribunal may determine to be reasonable in the circumstances.
- (5) An order of the Tribunal under this section may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

127 Application for review of order as to licence

- (1) Where the Copyright Tribunal has made an order under section 125 or 126, the licensing body or the person entitled to the benefit of the order may apply to the Tribunal to review its order.
- (2) An application shall not be made, except with the special leave of the Tribunal—
 - (a) within twelve months from the date of the order or of the decision on a previous application under this section, or
 - (b) if the order was made so as to be in force for 15 months or less, or as a result of the decision on a previous application under this section is due to expire within 15 months of that decision, until the last three months before the expiry date.

(3) The Tribunal shall on an application for review confirm or vary its order as the Tribunal may determine to be reasonable in the circumstances.

128 Effect of order of tribunal as to licence

(1) Where the Copyright Tribunal has made an order under section 125 or 126 and the order remains in force, the person entitled to the benefit of the order shall if he—

(a) pays to the licensing body any charges payable in accordance with the order or, if the amount cannot be ascertained, gives an undertaking to pay the charges when ascertained, and

(b) complies with the other terms specified in the order,

be in the same position as regards infringement of copyright 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 specified in the order.

(2) The benefit of the order may be assigned—

(a) in the case of an order under section 125, if assignment is not prohibited under the terms of the Tribunal's order; and

(b) in the case of an order under section 126, if assignment was not prohibited under the terms of the original licence.

(3) The Tribunal may direct that an order under section 125 or 126, or an order under section 127 varying such an order, so far as it varies the amount of charges payable, has effect from a date before that on which it is made, but not earlier than the date on which the reference or application was made or, if later, on which the licence was granted or, as the case may be, was due to expire.

If such a direction is made—

(a) any necessary repayments, or further payments, shall be made in respect of charges already paid, and

(b) the reference in subsection (1)(a) to the charges payable in accordance with the order shall be construed, where the order is varied by a later order, as a reference to the charges so payable by virtue of the later order.

128A Notification of licence or licensing scheme for excepted sound Recordings

(1) This section only applies to a proposed licence or licensing scheme that will authorise the playing in public of excepted sound recordings included in broadcasts, in circumstances where by reason of the exclusion of excepted sound recordings from section 72(1), the playing in public of such recordings would otherwise infringe the copyright in them.

(2) A licensing body must notify the Secretary of State of the details of any proposed licence or licensing scheme for excepted sound recordings before it comes into operation.

(3) A licence or licensing scheme, which has been notified under subsection (2), may not be operated by the licensing body until 28 days have elapsed since that notification.

(4) Subject to subsection (5), the Secretary of State shall take into account the matters set out in subsection (6) and then either –

(a) refer the licence or licensing scheme to the Copyright Tribunal for a determination of whether the licence or licensing scheme is reasonable in the circumstances, or

(b) notify the licensing body that he does not intend to refer the licence or licensing scheme to the Tribunal.

(5) If the Secretary of State becomes aware –

(a) that a licensing body has failed to notify him of a licence or licensing scheme under subsection (2) before it comes into operation; or

(b) that a licence or licensing scheme has been operated within 28 days of a notification under subsection (2),

subsection (4) does not apply, but the Secretary of State may at any time refer the licence or licensing scheme to the Tribunal for a determination of whether the licence or licensing scheme is reasonable in the circumstances, or may notify the licensing body that he does not intend to refer it to the Tribunal.

(6) The matters referred to in subsection (4) are -

(a) whether the terms and conditions of the proposed licence or licensing scheme have taken into account the factors set out in subsection (7);

(b) any written representations received by the Secretary of State;

(c) previous determinations of the Tribunal; 81 ss.128A and 128B inserted by SI 2003/2498.

(d) the availability of other schemes, or the granting of other licences, to other persons in similar circumstances, and the terms of those schemes or licences; and

(e) the extent to which the licensing body has consulted any person who would be affected by the proposed licence or licensing scheme, or organisations representing such persons, and the steps, if any, it has taken as a result.

(7) The factors referred to in subsection (6) are –

- (a) the extent to which the broadcasts to be shown or played by a potential licensee in circumstances mentioned in subsection (1) are likely to include excepted sound recordings;
- (b) the size and the nature of the audience that a licence or licensing scheme would permit to hear the excepted sound recordings;
- (c) what commercial benefit a potential licensee is likely to obtain from playing the excepted sound recordings; and
- (d) the extent to which the owners of copyright in the excepted sound recordings will receive equitable remuneration, from sources other than the proposed licence or licensing scheme, for the inclusion of their recordings in the broadcasts to be shown or played in public by a potential licensee.

(8) A proposed licence or licensing scheme that must be notified to the Secretary of State under subsection (2) may only be referred to the Tribunal under section 118 or 125 before such notification takes place.

(9) A proposed licensing scheme that has been notified to the Secretary of State under subsection (2) may only be referred to the Tribunal under section 119 after the Secretary of State has notified the licensing body that he does not intend to refer the licensing scheme to the Tribunal.

(10) If a reference made to the Tribunal under section 118 or 125 is permitted under subsection (8) then –

- (a) the reference shall not be considered premature only because the licence or licensing scheme has not been notified to the Secretary of State under subsection (2); and
- (b) where the Tribunal decides to entertain the reference, subsection (2) to (5) shall not apply.

(11) Nothing in this section shall be taken to prejudice any right to make a reference or application to the Tribunal under sections 120 to 122, 126 or 127.

(12) This section applies to modifications to an existing licence or licensing scheme as it applies to a proposed licence or licensing scheme.

(13) In this section and in section 128B, any reference to a "licence" means a licence granted by a licensing body otherwise than in pursuance of a licensing scheme and which covers works of more than one author.

128B References to the Tribunal by the Secretary of State under section 128A

(1) The Copyright Tribunal may make appropriate enquiries to establish whether a licence or licensing scheme referred to it by the Secretary of State under section 128A(4)(a) or (5) is reasonable in the circumstances.

(2) When considering the matter referred, and after concluding any such enquiries, the Tribunal shall take into account -

(a) whether the terms and conditions of the proposed licence or licensing scheme have taken into account the factors set out in section 128A(7); and

(b) any other factors it considers relevant,

and shall then make an order under subsection (3).

(3) The Tribunal shall make such order –

(a) in the case of a licensing scheme, either confirming or varying the proposed scheme, either generally or so far as it relates to cases of any description; or

(b) in the case of a licence, either confirming or varying the proposed licence,

as the Tribunal may determine to be reasonable in the circumstances.

(4) The Tribunal may direct that the order, so far as it reduces the amount of charges payable, has effect from a date before that on which it is made. If such a direction is made, any necessary repayments to a licensee shall be made in respect of charges already paid.

(5) The Tribunal may award simple interest on repayments, at such rate and for such period, ending not later than the date of the order, as it thinks fit.

Factors to be taken into account in certain classes of case

129 General considerations: unreasonable discrimination

In determining what is reasonable on a reference or application under this Chapter relating to a licensing scheme or licence, the Copyright Tribunal shall have regard to—

(a) the availability of other schemes, or the granting of other licences, to other persons in similar circumstances, and

(b) the terms of those schemes or licences, and shall exercise its powers so as to secure that there is no unreasonable discrimination between licensees, or prospective licensees, under the scheme or licence to which the reference or application relates and licensees

under other schemes operated by, or other licences granted by, the same person.

CHAPTER VIII

THE COPYRIGHT TRIBUNAL

The Tribunal

145 The Copyright Tribunal

(1) The Tribunal established under section 23 of the [1956 c. 74.] Copyright Act 1956 is renamed the Copyright Tribunal.

(2) The Tribunal shall consist of a chairman and two deputy chairmen appointed by the Lord Chancellor, after consultation with the Lord Advocate, and not less than two or more than eight ordinary members appointed by the Secretary of State.

(3) A person is not eligible for appointment as chairman or deputy chairman unless he is a barrister, advocate or solicitor of not less than seven years' standing or has held judicial office.

146 Membership of the Tribunal

(1) The members of the Copyright Tribunal shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.

(2) A member of the Tribunal may resign his office by notice in writing to the Secretary of State or, in the case of the chairman or a deputy chairman, to the Lord Chancellor.

(3) The Secretary of State or, in the case of the chairman or a deputy chairman, the Lord Chancellor may by notice in writing to the member concerned remove him from office if—

(a) he has become bankrupt or made an arrangement with his creditors or, in Scotland, his estate has been sequestrated or he has executed a trust deed for his creditors or entered into a composition contract, or

(b) he is incapacitated by physical or mental illness,

or if he is in the opinion of the Secretary of State or, as the case may be, the Lord Chancellor otherwise unable or unfit to perform his duties as member.

(4) If a member of the Tribunal is by reason of illness, absence or other reasonable cause for the time being unable to perform the duties of his office, either generally or in relation to particular proceedings, a person may be appointed to discharge his duties for a period not exceeding six months at one time or, as the case may be, in relation to those proceedings.

(5) The appointment shall be made—

(a) in the case of the chairman or deputy chairman, by the Lord Chancellor, who shall appoint a person who would be eligible for appointment to that office, and

(b) in the case of an ordinary member, by the Secretary of State;

and a person so appointed shall have during the period of his appointment, or in relation to the proceedings in question, the same powers as the person in whose place he is appointed.

(6) The Lord Chancellor shall consult the Lord Advocate before exercising his powers under this section.

147 Financial provisions

(1) There shall be paid to the members of the Copyright Tribunal such remuneration (whether by way of salaries or fees), and such allowances, as the Secretary of State with the approval of the Treasury may determine.

(2) The Secretary of State may appoint such staff for the Tribunal as, with the approval of the Treasury as to numbers and remuneration, he may determine.

(3) The remuneration and allowances of members of the Tribunal, the remuneration of any staff and such other expenses of the Tribunal as the Secretary of State with the approval of the Treasury may determine shall be paid out of money provided by Parliament.

148 Constitution for purposes of proceedings

(1) For the purposes of any proceedings the Copyright Tribunal shall consist of—

(a) a chairman, who shall be either the chairman or a deputy chairman of the Tribunal, and

(b) two or more ordinary members.

(2) If the members of the Tribunal dealing with any matter are not unanimous, the decision shall be taken by majority vote; and if, in such a case, the votes are equal the chairman shall have a further, casting vote.

(3) Where part of any proceedings before the Tribunal has been heard and one or more members of the Tribunal are unable to continue, the Tribunal shall remain duly constituted for the purpose of those proceedings so long as the number of members is not reduced to less than three.

(4) If the chairman is unable to continue, the chairman of the Tribunal shall—

(a) appoint one of the remaining members to act as chairman, and

(b) appoint a suitably qualified person to attend the proceedings and advise the members on any questions of law arising.

(5) A person is “suitably qualified” for the purposes of subsection (4)(b) if he is, or is eligible for appointment as, a deputy chairman of the Tribunal.

Jurisdiction and procedure

149 Jurisdiction of the Tribunal

The function of the Copyright Tribunal is to hear and determine proceedings under—

- (a) section 118, 119, or 120 (reference of licensing scheme);
- (b) section 121 or 122 (application with respect to entitlement to licence under licensing scheme);
- (c) section 125, 126 or 127 (reference or application with respect to licensing by licensing body);
- (d) section 139 (appeal against order as to coverage of licensing scheme or licence);
- (e) section 142 (application to settle royalty or other sum payable for rental of sound recording, film or computer program);
- (f) section 144(4) (application to settle terms of copyright licence available as of right);
- (g) section 190 (application to give consent for purposes of Part II on behalf of performer);
- (h) paragraph 5 of Schedule 6 (determination of royalty or other remuneration to be paid to trustees for the Hospital for Sick Children).

150 General power to make rules

(1) The Lord Chancellor may, after consultation with the Lord Advocate, make rules for regulating proceedings before the Copyright Tribunal and, subject to the approval of the Treasury, as to the fees chargeable in respect of such proceedings.

(2) The rules may apply in relation to the Tribunal —

- (a) as respects proceedings in England and Wales, any of the provisions of the [1950 c. 27.] Arbitration Act 1950;
- (b) as respects proceedings in Northern Ireland, any of the provisions of the [1937 c. 8 (N.I.)] Arbitration Act (Northern Ireland) 1937;

and any provisions so applied shall be set out in or scheduled to the rules.

(3) Provision shall be made by the rules—

- (a) prohibiting the Tribunal from entertaining a reference under section 118, 119 or 120 by a representative organisation unless the Tribunal is satisfied that the organisation is reasonably representative of the class of persons which it claims to represent;
- (b) specifying the parties to any proceedings and enabling the Tribunal to make a party to the proceedings any person or organisation satisfying the Tribunal that they have a substantial interest in the matter; and

(c) requiring the Tribunal to give the parties to proceedings an opportunity to state their case, in writing or orally as the rules may provide.

(4) The rules may make provision for regulating or prescribing any matters incidental to or consequential upon any appeal from the Tribunal under section 152 (appeal to the court on point of law).

(5) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

151 Costs, proof of orders, &c

(1) The Copyright Tribunal may order that the costs of a party to proceedings before it shall be paid by such other party as the Tribunal may direct; and the Tribunal may tax or settle the amount of the costs, or direct in what manner they are to be taxed.

(2) A document purporting to be a copy of an order of the Tribunal and to be certified by the chairman to be a true copy shall, in any proceedings, be sufficient evidence of the order unless the contrary is proved.

(3) As respect proceedings in Scotland, the Tribunal has the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath, as an arbiter under a submission.

Appeals

152 Appeal to the court on point of law

(1) An appeal lies on any point of law arising from a decision of the Copyright Tribunal to the High Court or, in the case of proceedings of the Tribunal in Scotland, to the Court of Session.

(2) Provision shall be made by rules under section 150 limiting the time within which an appeal may be brought.

(3) Provision may be made by rules under that section—

(a) for suspending, or authorising or requiring the Tribunal to suspend, the operation of orders of the Tribunal in cases where its decision is appealed against;

(b) for modifying in relation to an order of the Tribunal whose operation is suspended the operation of any provision of this Act as to the effect of the order;

(c) for the publication of notices or the taking of other steps for securing that persons affected by the suspension of an order of the Tribunal will be informed of its suspension.