

Proposed Committee Stage Amendments to
Copyright (Amendment) Bill 2006
(Clauses 12 to 24 - revised 3/1/2007)

12. Section added

The following is added immediately before section 41 under the cross-heading of "**Education**" -

"41A. Fair dealing for purposes of giving or receiving instruction

(1) Fair dealing with a work by or on behalf of a teacher or by a pupil for the purposes of giving or receiving instruction in a specified course of study provided by an educational establishment does not infringe the copyright in the work or, in the case of a published edition, in the typographical arrangement.

(2) In determining whether any dealing with a work is fair dealing under subsection (1), the court shall take into account all the circumstances of the case and, in particular -

- (a) the purpose and nature of the dealing, including whether the dealing is for a non-profit-making purpose and whether the dealing is of a commercial nature;
- (b) the nature of the work;

- (c) the amount and substantiality of the portion dealt with in relation to the work as a whole; and
- (d) the effect of the dealing on the potential market for or value of the work.

(3) Where any dealing with a work involves the inclusion of any passage or excerpt from a published literary or dramatic work in an anthology -

- (a) if the inclusion is not accompanied by a sufficient acknowledgement, the dealing is not fair dealing under subsection (1); and
- (b) if the inclusion is accompanied by a sufficient acknowledgement, subsection (2) applies in determining whether the dealing is fair dealing under subsection (1).

(4) Where any dealing with a work involves the making of a recording of a broadcast or cable programme or a copy of such a recording -

- (a) if an acknowledgement of authorship or other creative effort contained in the work recorded is not incorporated in the recording, the dealing is not fair dealing under subsection (1); and
- (b) if an acknowledgement of authorship or other creative effort contained in the work recorded is incorporated in the recording, subsection

(2) applies in determining whether the dealing is fair dealing under subsection (1).

(4A) Where any dealing with a work involves the making available of copies of the work through a wire or wireless network wholly or partly controlled by an educational establishment -

(a) if the educational establishment fails to -

(i) adopt technological measures to

restrict access to the copies of the work through the network so that the copies of the work are made available only to persons who need to use the copies of the work for the purposes of giving or receiving instruction in the specified course of study in question or for the purposes of maintaining or managing the network; or

(ii) ensure that the copies of the work are not stored in the network for a period longer than is necessary for the purposes of giving or receiving instruction in the specified course of study in question or, in any event, for a period longer than 12 consecutive months,

the dealing is not fair dealing under

subsection (1); and

(b) if the educational establishment -

(i) adopts technological measures to

restrict access to the copies of the work through the network so that the copies of the work are made available only to persons who need to use the copies of the work for the purposes of giving or receiving instruction in the specified course of study in question or for the purposes of maintaining or managing the network; and

(ii) ensures that the copies of the work are

not stored in the network for a period longer than is necessary for the purposes of giving or receiving instruction in the specified course of study in question or, in any event, for a period longer than 12 consecutive months,

subsection (2) applies in determining whether

the dealing is fair dealing under subsection

(1).

(4B) Without affecting the generality of section 37(5),

where any dealing with a work involves the making of

reprographic copies, the fact that the making of the copies

does not fall within section 45 does not mean that it is not covered by this section, and subsection (2) applies in determining whether the dealing is fair dealing under subsection (1).

(5) Where a copy which apart from this section would be an infringing copy is made in accordance with this section but is subsequently dealt with, it is to be treated as an infringing copy -

- (a) for the purpose of that dealing; and
- (b) if that dealing infringes copyright, for all subsequent purposes.

(6) In subsection (5), "dealt with" (被用以進行交易) means sold, let for hire, or offered or exposed for sale or hire."

13. Performing, playing or showing work in course of activities of educational establishments

(1) Section 43(1) is amended by repealing "other persons directly connected with the activities of the establishment" and substituting "the near relatives or guardians of the pupils".

(2) Section 43(2) is amended by repealing "for the purposes of instruction" and substituting "for the purposes of giving or receiving instruction".

(3) Section 43(3) is repealed and the following substituted -

- "(3) In subsection (1), "near relative" (近親) means -
- (a) a parent;

- (b) a grandparent;
- (c) a spouse;
- (d) a brother or sister;
- (e) a half-brother or half-sister;
- (f) a child (including an illegitimate child and an adopted child);
- (g) a grandchild; or
- (h) a son-in-law or daughter-in-law (including a spouse of an illegitimate child or of an adopted child).".

~~14. Recording by educational establishments of broadcasts and cable programmes~~

~~Section 44(2) is repealed.~~

15. Reprographic copying made by educational establishments of passages from published works

(1) Section 45 is amended, in the heading, by adding "**or pupils**" after "**educational establishments**".

(2) Section 45(1) is amended by repealing "for the purposes of instruction" and substituting "for the purposes of giving instruction, or by a pupil for the purposes of receiving instruction in a specified course of study provided by an educational establishment,".

~~(3) Section 45(2) is repealed.~~

16. ~~Section~~ Sections added

The following ~~is~~ are added immediately before section 54 under the cross-heading of "**Public administration**" -

"54A. Fair dealing for purposes of public administration

(1) Fair dealing with a work by the Government, the Executive Council, ~~the Legislative Council,~~ the Judiciary or any District Council for the purposes of efficient administration of urgent business does not infringe the copyright in the work or, in the case of a published edition, in the typographical arrangement.

(2) In determining whether any dealing with a work is fair dealing under subsection (1), the court shall take into account all the circumstances of the case and, in particular -

- (a) the purpose and nature of the dealing, including whether the dealing is for a non-profit-making purpose and whether the dealing is of a commercial nature;
- (b) the nature of the work;
- (c) the amount and substantiality of the portion dealt with in relation to the work as a whole; and
- (d) the effect of the dealing on the potential market for or value of the work.

(3) Where a copy which apart from this section would be

an infringing copy is made in accordance with this section but is subsequently dealt with, it is to be treated as an infringing copy -

- (a) for the purpose of that dealing; and
- (b) if that dealing infringes copyright, for all subsequent purposes.

(4) In subsection (3), "dealt with" (被用以進行交易) means sold, let for hire, or offered or exposed for sale or hire."

54B. Legislative Council

(1) Copyright is not infringed by anything done for the purposes of the proceedings of the Legislative Council, or anything done by the Legislative Council for the purposes of exercising its powers and functions.

(2) Copyright is not infringed by anything done for the purposes of reporting the proceedings of the Legislative Council; but this is not to be construed as authorizing the copying of a work which is itself a published report of the proceedings."

16A. Legislative Council and judicial proceedings

(1) Section 54 is amended by repealing the heading and substituting "Judicial proceedings".

(2) Section 54(1) is amended by repealing "the proceedings of the Legislative Council or".

16B. Use of typeface in ordinary course of printing

Section 62(3) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

17. Advertisement of sale of artistic work

(1) Section 72(2) is amended, in the English text, by repealing "if that dealing infringes copyright for all subsequent purposes" and substituting "and, if that dealing infringes copyright, for all subsequent purposes".

(2) Section 72(2) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

18. Section added

The following is added -

"81A. Playing of sound broadcasts inside vehicles

(1) The playing of a sound broadcast inside a vehicle for the purpose of affording the driver of the vehicle access to public information (including but not limited to news reports, weather forecasts and information relating to road traffic) does not infringe the copyright in the sound broadcast, any sound recording included in it or any literary, dramatic or musical work included in it.

(2) In subsection (1), "vehicle" (車輛) includes any private or public vehicle which is constructed or adapted for use on roads."

18A. Right to be identified as author or director

(1) Section 89(1) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(2) Section 89(4)(a) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

(3) Section 89(7)(c) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

(4) Section 89(8) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

18B. Requirement that right be asserted

(1) Section 90 is amended, in the heading, in the Chinese text, by repealing "體現" and substituting "宣示".

(2) Section 90(1) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(3) Section 90(2) is amended, in the Chinese text, by repealing "體現" where it twice appears and substituting "宣示".

(4) Section 90(2)(a) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(5) Section 90(3) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

(6) Section 90(3) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(7) Section 90(3)(b) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

(8) Section 90(3)(b) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(9) Section 90(4) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(10) Section 90(4)(a) is amended, in the Chinese text, by repealing "體現" where it twice appears and substituting "宣示".

(11) Section 90(4)(b) is amended, in the Chinese text, by repealing "體現" where it twice appears and substituting "宣示".

(12) Section 90(4)(c) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(13) Section 90(4)(d) is amended, in the Chinese text, by repealing "體現" where it twice appears and substituting "宣示".

(14) Section 90(5) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

18C. Right to object to derogatory treatment of work

Section 92(4)(a) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

19. Infringement of right by possessing or dealing with infringing article

(1) Section 95(1)(a) is amended by repealing "for the purpose of, in the course of, or in connection with, any trade or

business" and substituting "for the purpose of or in the course of any trade or business".

(2) Section 95(1)(c) is amended by repealing "for the purpose of, in the course of, or in connection with, any trade or business" and substituting "for the purpose of or in the course of any trade or business".

(2A) Section 95(1)(c) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

(3) Section 95(1)(d) is amended by repealing "otherwise than for the purpose of, in the course of, or in connection with, any trade or business" and substituting "otherwise than for the purpose of or in the course of any trade or business".

20. False attribution of work

(1A) Section 96(2)(b) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

(1) Section 96(5) is amended by repealing "for the purpose of, in the course of, or in connection with, any trade or business" and substituting "for the purpose of or in the course of any trade or business".

(2) Section 96(6) is amended by repealing "for the purpose of, in the course of, or in connection with, any trade or business" and substituting "for the purpose of or in the course of any trade or business".

(3) Section 96(7) is amended, in the Chinese text, by repealing "展覽" and substituting "陳列".

20A. Application of provisions to joint works

(1) Section 99(1) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(2) Section 99(2) is amended, in the Chinese text, by repealing "達成" and substituting "體現".

20B. Transmission of moral rights on death

(1) Section 106(3)(a) is amended, in the Chinese text, by repealing "體現" and substituting "宣示".

(2) Section 106(3)(b) is amended, in the Chinese text, by repealing "達成" and substituting "體現".

21. Order for delivery up

Section 109(1)(a) is amended by repealing "for the purpose of, in the course of, or in connection with, any trade or business" and substituting "for the purpose of or in the course of any trade or business".

22. Criminal liability for making or dealing with infringing articles, etc.

(1) Section 118(1) is repealed and the following substituted -

"(1) A person commits an offence if he, without the licence of the copyright owner of a copyright work -

- (a) makes for sale or hire an infringing copy of the work;
- (b) imports an infringing copy of the work into Hong Kong otherwise than for his private and domestic use;
- (c) exports an infringing copy of the work from Hong Kong otherwise than for his private and domestic use;
- (d) sells, lets for hire, or offers or exposes for sale or hire an infringing copy of the work for the purpose of or in the course of any trade or business;
- (e) exhibits in public or distributes an infringing copy of the work for the purpose of or in the course of any trade or business which consists of dealing in infringing copies of copyright works;
- (f) possesses an infringing copy of the work with a view to -
 - (i) its being sold or let for hire by any person for the purpose of or in the course of any trade or business; or
 - (ii) its being exhibited in public or distributed by any person for the purpose of or in the course of any trade or business which consists of

dealing in infringing copies of
copyright works; or

- (g) distributes an infringing copy of the work
(otherwise than for the purpose of or in the
course of any trade or business which consists
of dealing in infringing copies of copyright
works) to such an extent as to affect
prejudicially the copyright owner."

(2) Section 118 is amended by adding -

"(1A) Where -

- (a) a person exhibits in public or distributes an
infringing copy of a copyright work for the
purpose of or in the course of any trade or
business; and
- (b) the circumstances in which the infringing copy
is so exhibited or distributed give rise to a
reasonable suspicion that the trade or
business consists of dealing in infringing
copies of copyright works,

then, unless there is evidence to the contrary, the trade or
business is presumed, for the purposes of any proceedings
instituted under subsection (1)(e), to be a trade or business
which consists of dealing in infringing copies of copyright
works.

(1B) Where -

- (a) a person possesses an infringing copy of a

copyright work with a view to its being exhibited in public or distributed by any person for the purpose of or in the course of any trade or business; and

- (b) the circumstances in which the infringing copy is so possessed give rise to a reasonable suspicion that the trade or business consists of dealing in infringing copies of copyright works,

then, unless there is evidence to the contrary, the trade or business is presumed, for the purposes of any proceedings instituted under subsection (1)(f)(ii), to be a trade or business which consists of dealing in infringing copies of copyright works."

(3) Section 118 is amended by adding -

"(2A) Without prejudice to subsection (1), a person commits an offence if he, without the licence of the copyright owner of a copyright work to which this subsection applies, possesses an infringing copy of the work for the purpose of or in the course of any trade or business with a view to its being used by any person for the purpose of or in the course of that trade or business.

(2B) Subsection (2A) applies to a copyright work that is -

- (a) a computer program;
- (b) a movie;

- (c) a television drama;
- (d) a musical sound recording; or
- (e) a musical visual recording.

(2C) Subsection (2A) does not apply to an infringing copy of a computer program in a printed form.

(2D) Subsection (2A) does not apply to the possession of an infringing copy of a computer program if -

~~(a) the computer program was made available to the public together with another work, not being a computer program itself, that requires the use of the computer program to be viewed or listened to; and~~

~~(b) the person who possesses the infringing copy of the computer program does so merely because it is technically required for the viewing or listening of the other work referred to in paragraph (a).~~

(a) the computer program incorporates the whole or any part of a work that is not a computer program itself, and the computer program is technically required for the viewing or listening of the work by a member of the public to whom a copy of the work is made available; or

(b) the computer program is incorporated in a work that is not a computer program itself, and the

computer program is technically required for the viewing or listening of the work by a member of the public to whom a copy of the work is made available.

(2E) Subsection (2A) does not apply if -

- (a) the person who possesses an infringing copy does so for the purpose of giving legal advice ~~in the professional capacity of a solicitor or barrister~~ in relation to the infringing copy ~~to his clients~~ as a lawyer (whether or not he is qualified in Hong Kong to practise as a barrister or a solicitor);
- (b) the person who possesses an infringing copy does so for the purpose of providing investigation service in relation to the infringing copy to the copyright owner or exclusive licensee of the copyright work concerned; or
- (c) the person who possesses an infringing copy does so on his client's premises and the infringing copy is provided to him by his client."

(4) Section 118 is amended by adding -

"(2F) Without prejudice to section 125, where a body corporate or a partnership has done an act referred to in subsection (2A), the following person shall, unless ~~he proves~~

there is evidence showing that he did not authorize the act to be done, be presumed also to have done the act -

(a) in the case of the body corporate -

(i) any director of the body corporate who, at the time when the act was done, was responsible for the internal management of the body corporate; or

(ii) if there was no such director, any person who, at the time when the act was done, was responsible under the immediate authority of the directors of the body corporate for the internal management of the body corporate;

(b) in the case of the partnership -

(i) any partner in the partnership who, at the time when the act was done, was responsible for the internal management of the partnership; or

(ii) if there was no such partner, any person who, at the time when the act was done, was responsible under the immediate authority of the partners in the partnership for the internal management of the partnership.

(2G) A defendant charged with an offence under subsection (2A) by virtue of subsection (2F) is taken ~~to have~~

~~proved that he did not authorize~~ not to have done the act in question ~~to be done~~ if -

- (a) sufficient evidence is adduced to raise an issue ~~with respect to that fact~~ that he did not authorize the act to be done; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

(2H) For the purposes of subsection (2G)(a) -

(a) the defendant shall be taken to have adduced sufficient evidence if the court is satisfied that -

(i) the defendant has caused the body

corporate or partnership concerned to set aside financial resources, and has directed the use of the resources, for the acquisition of a sufficient number of copies of the copyright work to which the proceedings relate, which are not infringing copies, for the use of the body corporate or partnership; or

(ii) the body corporate or partnership

concerned has incurred expenditure for the acquisition of a sufficient number of copies of the copyright work to which the proceedings relate, which are not infringing copies, for the use of

the body corporate or partnership;

(b) In subject to paragraph (a), in determining whether sufficient evidence is adduced ~~for the purposes of subsection (2G)(a)~~, the court may have regard to, including but not limited to, the following -

(ai) whether the defendant has introduced policies or practices against the use of infringing copies of copyright works by the body corporate or partnership;

~~(b) whether the defendant has set aside financial resources or incurred expenditure for the acquisition by the body corporate or partnership of copies of copyright works which are not infringing copies;~~

(eii) whether the defendant has taken action to prevent the use of infringing copies of copyright works by the body corporate or partnership."

(5) Section 118(3) is amended by adding "or (2A)" after "subsection (1)".

(6) Section 118 is amended by adding -

"(3A) It is a defence for the person charged with an offence under subsection (2A) to prove that -

(a) he possessed the infringing copy in question

in the course of his employment; and

(b) the infringing copy in question was provided to him by or on behalf of his employer for use in the course of his employment.

(3B) Subsection (3A) does not apply to an employee -

(a) who, at the time when the infringing copy in question was acquired, was in a position to make or influence a decision regarding the acquisition of the infringing copy; or

(b) who, at the time when the offence in question was committed, was in a position to make or influence a decision regarding the use or removal of the infringing copy in question.".

(7) Section 118(4) is amended by repealing "for the purpose of, in the course of, or in connection with, any trade or business" and substituting "for the purpose of or in the course of any trade or business".

(8) Section 118(5) is amended by repealing "for the purpose of, in the course of, or in connection with, any trade or business" and substituting "for the purpose of or in the course of any trade or business".

(8A) Section 118(6) is amended by repealing "not being excluded under section 35(4)" and substituting "not being excluded under section 35(4) and which was lawfully made in the country, territory or area where it was made".

(9) Section 118(8) is amended by repealing "for the purpose

of, in the course of, or in connection with, any trade or business" and substituting "for the purpose of or in the course of any trade or business".

(10) Section 118(8A) is repealed.

(11) Section 118 is amended by adding -

"(10) In this section, "dealing in" (經銷) means selling, letting for hire, or distributing for profit or reward."

23. Penalties for offences under section 118

Section 119(1) is amended by adding "or (2A)" after "section 118(1)".

24. Section added

The following is added -

"119B. Offence of making for distribution or distributing infringing copies of copyright works in printed form contained in books, etc.

(1) Without prejudice to section 118(1), a person commits an offence if he, ~~without the licence of the copyright owner of a copyright work to which this subsection applies,~~ does any of the following acts on a regular or frequent basis, for the purpose of or in the course of any trade or business, ~~and it results in a financial loss to the copyright owner~~ -

(a) without the licence of the copyright owner of a copyright work to which this subsection

applies, makes an infringing copy of the work for distribution, resulting in a financial loss to the copyright owner; or

- (b) without the licence of the copyright owner of a copyright work to which this subsection applies, distributes an infringing copy of the work, resulting in a financial loss to the copyright owner.

(2) Subsection (1) applies to a copyright work in a printed form that is contained in -

- (a) a book;
- (b) a magazine;
- (c) a periodical; or
- (d) a newspaper.

(3) Subsection (1) does not apply in the circumstances specified in the regulations made under subsection (14).

(4) Subsection (1) does not apply to an educational establishment of any of the following descriptions -

- (a) an educational establishment specified in section 1 of Schedule 1;
- (b) an educational establishment exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112); or
- (c) an educational establishment receiving direct recurrent subvention from the Government.

(5) Subsection (1) does not apply to the distribution

through a wire or wireless network of an infringing copy to which access is not restricted by procedures of authentication or identification.

(6) Without prejudice to section 125, where a body corporate or a partnership has done an act referred to in subsection (1), the following person shall, unless ~~he proves that there is evidence showing that~~ he did not authorize the act to be done, be presumed also to have done the act -

(a) in the case of the body corporate -

(i) any director of the body corporate who, at the time when the act was done, was responsible for the internal management of the body corporate; or

(ii) if there was no such director, any person who, at the time when the act was done, was responsible under the immediate authority of the directors of the body corporate for the internal management of the body corporate;

(b) in the case of the partnership -

(i) any partner in the partnership who, at the time when the act was done, was responsible for the internal management of the partnership; or

(ii) if there was no such partner, any person who, at the time when the act

was done, was responsible under the immediate authority of the partners in the partnership for the internal management of the partnership.

(7) A defendant charged with an offence under subsection (1) by virtue of subsection (6) is taken ~~to have proved that he did not authorize~~ not to have done the act in question ~~to be done~~ if -

- (a) sufficient evidence is adduced to raise an issue ~~with respect to that fact~~ that he did not authorize the act to be done; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

(8) For the purposes of subsection (7)(a) -

(a) the defendant shall be taken to have adduced sufficient evidence if the court is satisfied that -

(i) the defendant has caused the body

corporate or partnership concerned to set aside financial resources, and has directed the use of the resources, for the acquisition of appropriate licences, in accordance with the needs of the body corporate or partnership, to make or distribute, or to make and distribute, copies of the copyright

work to which the proceedings relate
for the use of the body corporate or
partnership;

(ii) the defendant has caused the body
corporate or partnership concerned to
set aside financial resources, and has
directed the use of the resources, for
the acquisition of a sufficient number
of copies of the copyright work to
which the proceedings relate, which are
not infringing copies, for the use of
the body corporate or partnership;

(iii) the body corporate or partnership
concerned has incurred expenditure for
the acquisition of appropriate
licences, in accordance with the needs
of the body corporate or partnership,
to make or distribute, or to make and
distribute, copies of the copyright
work to which the proceedings relate
for the use of the body corporate or
partnership; or

(iv) the body corporate or partnership
concerned has incurred expenditure for
the acquisition of a sufficient number
of copies of the copyright work to

which the proceedings relate, which are not infringing copies, for the use of the body corporate or partnership;

(b) In subject to paragraph (a), in determining whether sufficient evidence is adduced ~~for the purposes of subsection (7)(a)~~, the court may have regard to, including but not limited to, the following -

(ai) whether the defendant has introduced policies or practices against the making and distribution of infringing copies of copyright works by the body corporate or partnership;

~~(b) whether the defendant has set aside financial resources or incurred expenditure for the purposes of obtaining licences to make and distribute copies of copyright works;~~

(eii) whether the defendant has taken action to prevent the making or distribution of infringing copies of copyright works by the body corporate or partnership.

(9) It is a defence for the person charged with an offence under subsection (1) to prove that -

(a) he has taken adequate and reasonable steps to obtain a licence from the copyright owner in

question but failed to get a timely response from the copyright owner;

(b) he has made reasonable efforts but failed to obtain commercially available copies of the copyright work in question and the copyright owner in question has refused to grant him a licence on reasonable commercial terms;~~or~~

(c) he did not know and had no reason to believe that the copies made or distributed are infringing copies~~;~~ or

(d) he cannot, after making reasonable enquiries, ascertain the identity and contact details of the copyright owner in question.

(10) It is a defence for the person charged with an offence in respect of an act under subsection (1) to prove that -

(a) he did the act in the course of his employment; and

(b) he did the act in accordance with the instruction given to him by or on behalf of his employer in the course of his employment.

(11) Subsection (10) does not apply to an employee who, at the time when the infringing copy in question was made or distributed, was in a position to make or influence a decision regarding the making or distribution of the infringing copy.

(12) A person who commits an offence under subsection (1) is liable on conviction on indictment to a fine at level 5 in respect of each infringing copy and to imprisonment for 4 years.

(13) Sections 115 and 117 (presumptions as to various matters connected with copyright) do not apply to proceedings for an offence under subsection (1).

(14) For the purposes of subsection (3), the Secretary for Commerce, Industry and Technology may by regulations specify the circumstances in which subsection (1) does not apply.".