

INTELLECTUAL PROPERTY RIGHTS (Unregistered Rights) (Jersey) LAW 201-
A Report for the Economic Affairs Scrutiny Panel

By

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TERMS OF REFERENCE

The specific terms of reference for the following report are as follows:

- 1. To examine the rationale for the adoption of the proposed legislation Intellectual Property (Unregistered Rights) (Jersey) Law 201- ("IPURL").*
- 2. To establish whether the proposed legislation is appropriate for Jersey and constitutes the best method of achieving the objectives of the legislation.*
- 3. To examine any further issues relating to the topic that may arise in the course of the Scrutiny Review and which the Panel considers relevant.*

This report is prepared on the basis of a detailed comparison of the terms of the IPURL and the relevant parts of the Copyright, Designs and Patents Act 1988 of the United Kingdom as amended.

The report also takes into account key elements of the Economic Development Business Plan for Jersey 2010. These are expressed in the plan as follows:

High value economic diversification remains a top priority. The first major element of the new Intellectual Property legislation, the Unregistered Rights Law will, subject to States approval, come into being in 2010. This will open significant business opportunities in the e-commerce sector. It is now clear that the convergence between Intellectual Property (IP) and ecommerce is a vehicle for genuine diversification. During 2010, delivering a plan to exploit the value of IP/e-commerce convergence will be proposed.

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Strategic Development

[2.] Intellectual Property

- I. Develop modern intellectual property legislation and strategy in the areas of Copyright, Design Right, Performers' Protection, Patents and Registered Designs, Trademarks and Plant Breeders Rights;*
- II. Work with the Intellectual Property Services Industry to identify and take advantage of new intellectual property based business opportunities (legal services, patent and trademark agents, licensing bodies, trust and financial Services)*

While IPURL covers a range of rights in a variety of creative works and activities, except where specific reference is made otherwise the term "copyright" is in this report used as a convenient means to include reference to all the particular rights as defined in the draft legislation.

INTRODUCTION

This report addresses essentially two questions:

First, is IPURL the law, in terms of its substance, that Jersey needs to accomplish its internal objectives in fostering growth in creative and information based enterprises and, in terms of its form, is it efficient?

Second, will enacting IPURL allow Jersey to “plug in” to the global network of copyright laws in a way that will assure its position as a basis for developments with international reach?

Before proceeding to exam those questions it is worth looking at on a preliminary basis at some of the issues involved in modern copyright systems. This will provide important parameters for evaluation of IPURL.

Modern Copyright

Copyright law has become increasingly complex and in some respects controversial over recent decades for a number of reasons. The idea of copyright is a relatively simple one. It is embodied in national laws which provide the economic framework for the production of creative works. It does this by granting limited monopolies to creators in respect of the exploitation of their works, monopolies which are constructed on exclusive rights to authorise or prohibit the doing of certain acts – copying, broadcasting, etc – in relation to the protected works.

Good copyright laws also have another mission. They seek to establish the appropriate balance between the rights of the creators over their works and access to those works by consumers and other users. Finding the right balance is not easy. It is regularly disturbed by the arrival of new – disruptive - technologies which may either enhance the ability of creators to exercise control over their rights or make access to works more attainable for users. Disruptive technologies have had an enormous impact over the years on the evolution of copyright standards, with the last 15 years bringing the biggest changes through digital systems and the global expansion of the internet.

Some indication of the scale of change that can occur when the balance is lost can be gleaned from the plight of the sound recording industry. In 1999, global revenues for the recording industry amounted to some \$40 billion. 10 years later, under pressure from unauthorised file sharing of digital music files, those revenues had fallen by more than 30%.

Another driver of change in copyright law has been the increasing recognition of its importance to national economies and international trade. Most developed economies can point to studies which suggest that between 5-10% of their GDP depends on the existence and enforcement of copyright.

Conversely, many international trade disputes highlight the distortion which lack of copyright protection and its enforcement can bring to global trading conditions.

These two factors – technology and the economic importance of copyright – are behind the many initiatives undertaken at international, regional and national level to modernise copyright laws. In Europe, developments at the regional level have

had the most impact in the last 20 years with a series of EU Directives extending and harmonising the copyright as it is legislated at Member State level.

At the international level the two key developments in the last 15 years have been the introduction of new international standards for copyright, equipping it to address information society issues, and the reinforcement of established norms through TRIPs.

In seeking to update its intellectual property laws, Jersey must take account of all these developments, not necessarily as a response to a specific treaty obligation but simply to ensure that it provides a proper basis for enterprise and creativity in a globally connected and increasingly knowledge based economy.

It is against this background that examination of the 2 questions should be addressed.

IS THIS THE RIGHT LAW FOR JERSEY?

The extension to Jersey of the UK Copyright, Designs and Patent Act of 1988

The law embodied in IPURL, as presented for review, is for the most part a consolidation and restatement of the provisions of the UK Copyright, Designs and Patent Act of 1988 ("CDPA 1988") and its various amendments. IPURL therefore answers in its own right the most fundamental question regard copyright law reform in Jersey: is there a case for devising a new set of provisions designed specifically for local conditions and objectives? The answer would appear to be no.

The existing law on copyright in Jersey is the Loi (1913) Au Sujet Des Droits D'Auteur. Article 3 of that law provides as follows:

Ledit Acte de Parlement dit "Copyright Act 1911" en ce qui concerne l'Ile de Jersey, entrera en vigueur à la date de la promulgation dans l'Ile de la présente Loi.

Paragraph 36(1), Schedule 1 of the CDPA 1988 provides that the 1911 Act is to remain in force as part of the law of any dependent territory in which it was in force immediately before commencement of the copyright provisions of the 1988 Act. Paragraph 36(3) further provides that if it appears to Her Majesty that provision with respect to copyright has been made in the law of the Channel Islands otherwise than by extending the copyright provisions of the 1988 Act Her Majesty may by Order in Council repeal the 1911 Act as it has effect as part of the law of that territory.

Detailed analysis of the constitutional elements of the copyright law reform process are out of scope for the purposes of this report. It is assumed therefore that appropriate investigation of the constitutional requirements has been conducted to ensure that the provisions of IPURL as necessary replace any existing regulation of copyright in Jersey.

CDPA 1988 as amended by numerous instances of secondary legislation represents a comprehensive and modern statement of copyright. At the same

time it enables the United Kingdom to fulfil all its obligations at international level in the field of copyright.

Defining copyright law in the United Kingdom has taken many years, many revision processes, and consultations and embodies the input of many experts in the field.

It is submitted that by using the 1988 act as the basis of IPURL, a number of advantages have been secured:

- The 1988 Act and its various amendments represent an advanced form of copyright law which can be applied and further developed for use in Jersey under local conditions and authority
- The UK is party to all the relevant international treaties and has implemented all relevant European Directives in the field. Using the 1988 Act as the basis for IPURL ensure that copyright standards in Jersey meet all current international standards
- In localising the 1988 Act within IPURL the opportunity has been wisely and effectively taken to consolidate the various provisions of the UK copyright law.

Analysis of IPURL

IPURL contains 411 Articles and 2 Schedules. 217 of these Articles are identical to the corresponding provisions of the UK law; 58 of the Articles have no directly corresponding provision in UK law. The remaining articles differ from UK law in specific details of drafting.

A number of provisions of UK law are not incorporated in IPURL

A complete comparative analysis of IPURL with UK law is contained in **Annex A**.

The key areas of substantive differentiation between IPURL and the UK law are principally the following:

1. IPURL omits the lending right. Lending in UK laws means making a copy of a qualifying work available for use, on terms that it will or may be returned, otherwise than for direct or indirect economic or commercial advantage through an establishment which is accessible to the public.
2. In some areas of UK law, notably in exceptions to copyright in favour of use of copyright materials in research and for educational purposes, the exception is limited to research and educational which is not conducted for profit. That limitation is omitted in IPURL
3. In a number instances – for example in Article 70: exception to copyright for public inspection of copyright material pursuant to statue – IPURL adds reference to communicating such material to the public.
4. The provisions of the UK law relating to the constitution and functions of the Copyright Tribunal are replaced in IPURL with detailed provisions (in Part 8, Articles 380-389) regarding the Licensing Authority.

5. A number of Articles in IPURL contain different provisions regarding the scale of penalties for certain offences in relation to copyright
6. A number of articles in IPURL contain reference to a longer period of limitation (10 years as opposed to 6 years in UK law)
7. Articles 399 to 410 contain extensive provisions enabling the scope and the content of IPURL to be extended by Ministerial Order.
8. Schedule 1 contains detailed provisions relating to the liability of service providers for infringing acts committed on the networks they administer.

Efficiency of IPURL

Efficiency in relation to a law such as IPURL covers various aspects:

- Is the law effectively organised so that its provisions can be efficiently navigated by its users?
- Are its provisions susceptible to correct interpretation?
- Does it contain the necessary mechanisms for review, revision and promulgation?

In all these respects IPURL appears fit for purpose. Indeed, in its organisation, IPURL represents a major contribution to better access to many of the provisions of the UK law because the drafters of IPURL have wisely and very effectively taken the opportunity to consolidate the many provisions of the CDPA 1988 and its various amendments. Identifying the specific provisions of UK law is somewhat challenging given the fact they are widely dispersed through an array of secondary enactments.

Future Proofing

Another aspect of the efficiency of IPURL is whether it represents to the fullest extent the law upon which it is based.

As noted earlier in this report, copyright law has constantly to respond to new challenges from technology. The UK origins of copyright law relate to the development of commercial printing and throughout its evolution copyright has attempted to catch up with the latest form of disruptive technology. The vast amount of secondary legislation in the UK since the CDPA 1988 was enacted bears vivid testimony to this process. It is therefore not only appropriate but also necessary that IPURL contains, within Articles 399 to 410 the necessary powers for the Minister, by Order, to update the law as necessary and according to local needs.

Schedule 1 is also an important addition to the UK law base in so far as it spells out in greater detail an important area of regulation, that of ISP liability. Since networked services and particularly the internet became a medium for distribution of copyright works attempts have been made to identify the respective roles and responsibilities of copyright owners and service providers when things go wrong.

Who should police networks and attempt to stop the unauthorised use of copyright works, for example through unauthorised file sharing?

Copyright owners argue that ISPs should bear the brunt of the enforcement burden given that it is their services and networks which provide the context for the infringing acts. Copyright owners also argue that ISP are best placed to interrupt infringing activity. For their part, ISP, argue that their networks are essentially “dumb pipes” and that they are mere conduits for infringing traffic over which they cannot and should not be expected to exercise control.

To a significant extent the ISP arguments have prevailed. Most modern copyright laws provide what are referred to as “safe harbour” provisions whereby ISPs can generally escape liability for infringing activities on their networks provided they respond expeditiously to requests for action by affected copyright owners.

The CDPA 1988 contains those provisions which IPURL in turn incorporates and develops. However, IPURL does not however take account of an important new development in UK law: the changes to copyright brought about by the Digital Economy Act of 2010.

Detailed review of the new UK provisions is outside the scope of this report but some of its key provisions are worth noting. The Digital Economy Act addresses in some of its provisions the issue of unauthorised online use of copyright materials, mostly in the form of file sharing. As noted above, the music industry has lost a significant part of its market globally as a result of file sharing (although views differ as to the extent of the loss related directly to file sharing). In the new Act Ofcom is given important new powers and responsibilities for reviewing developments and instituting technical measures as necessary to deal with wide scale online infringements:

Digital Economy Act 2010

124G

- (1) The Secretary of State may direct OFCOM to—*
- (a) assess whether one or more technical obligations should be imposed on internet service providers;*
 - (b) take steps to prepare for the obligations;*
 - (c) provide a report on the assessment or steps to the Secretary of State.*
- (2) A “technical obligation”, in relation to an internet service provider, is an obligation for the provider to take a technical measure against some or all relevant subscribers to its service for the purpose of preventing or reducing infringement of copyright by means of the internet.*
- (3) A “technical measure” is a measure that—*
- (a) limits the speed or other capacity of the service provided to a subscriber;*
 - (b) prevents a subscriber from using the service to gain access to particular material, or limits such use;*
 - (c) suspends the service provided to a subscriber; or*
 - (d) limits the service provided to a subscriber in another way.*

One area of possible future development which is understood to fall within the scope of this provision is the introduction of the so-called “graduated response” or

“three strikes” approach. This means the establishment of process whereby internet users engaged in repeat infringing behaviour can be given a series of warnings and, in the absence of any response thereto and continuation of infringing behaviour, have their internet access suspended or terminated.

A law, known as HADOPI (after the name of the agency established to administer the system) was introduced in France in 2009. Similar measures are being instituted privately by EIRCOM, a leading ISP in Ireland and draft “three strikes” legislation is currently before the New Zealand parliament.

A key question for Jersey is whether IPURL should be further developed to incorporate the new provisions in the UK law. While posing that question, however, it is important to note that there is no provision of international copyright law that requires the UK or any other country to legislate on “three strikes” provisions.

WILL IPURL SUPPORT JERSEY AT THE INTERNATIONAL LEVEL?

This is the second key question and it falls to be examined in two ways. First, will IPURL enable Jersey to “plug into” the international copyright recognition so that the enterprise and output of its citizens and businesses enjoy protection throughout the world. Second, will IPURL create within Jersey a solid enough copyright regime to attract inward investment in the areas of enterprise it supports.

Before answering these questions is worth examining the general position of Jersey in relation to the World Trade Organisation. This was admirably expressed in the following way by Richard Plender QC in the article *The Channel Islands' Position In International Law*.

The Channel Islands do not participate directly in the work of the World Trade Organization; but in common with other small jurisdictions they are liable to be radically affected by it. Indeed, the Channel Islands have a special propensity to be affected by that Organization and by agreements concluded under its aegis since the islands are subject to certain rules of Community law including those governing customs matters and quantitative restrictions. It is by no means easy to determine the extent to which that expression embraces rules applied pursuant to certain of the agreements ratified by the European Community pursuant to the World Trade Organization. It is established, however, that the European Community has sole competence, pursuant to Article 113 of the EC Treaty, to conclude multilateral agreements on trade in goods, under the aegis of that body; and that the Community is jointly competent with the Member States to conclude the General Agreement on Trade in Services and the TRIPS Agreement.

The Agreement establishing the World Trade Organization was approved by Council Decision 94/800/EC of December 22nd, 1994 and thus formally incorporated into Community law. The European Court has indicated that some, at least, of the provisions laid down by agreements concluded under the aegis of the World Trade Organization constitute rules governing the removal of quantitative restrictions on trade, including trade between Member States. That appears, for instance from the ruling given in

response to a request from the Hoge Raad in Case C-316/95. Generics BV v Smith Kline & French Laboratories, where the point at issue was the TRIPS Agreement.

While some aspects of TRIPS are concerned with the promotion of free trade in services and are therefore inapplicable to the Channel Islands, others relate to the removal of obstacles to trade in goods and thus appear in principle applicable. The TRIPS Agreement, which came into effect on January 1st, 1995, is a part of the Marrakesh Agreement establishing the World Trade Organization, and joined to date by 132 members. It is the most comprehensive multilateral agreement on intellectual property. It establishes substantially higher standards of protection for a full range of industrial property rights than are embodied in current international agreements such as the Paris Convention for industrial property (patents, trademarks and trade secrets) or the Berne Convention for copyrights. The intellectual property rights covered by the TRIPS Agreement are: copyrights, patents, trademarks, industrial designs, trade secrets (undisclosed information), integrated circuits (semiconductors), and geographical indications.

In the area of copyrights, the TRIPS Agreement obliges the parties to comply with provisions of the Berne Convention, except for that Convention's requirements on moral rights; protects computer programs as literary works and databases as compilations under copyright; imposes an immediate obligation on parties to grant owners of computer programs and sound recordings the right to authorize or prohibit the rental of their products; establishes a 50-year term for protection of sound recordings, as well as requiring signatories to provide protection for existing sound recordings and sets a minimum 50-year term for protection of motion pictures and other works where companies may be the author.

It appears inevitable that both bailiwicks of the Channel Islands will have to adopt legislation to secure the application of the TRIPS Agreement, in so far as it has a bearing upon the free movement of goods.

As noted, TRIPs reinforces the provisions of the Berne Convention and brings it within the World Trade Organisation. Other provisions of international are also relevant, most notably the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty of 1996. These two treaties were established to extend and adapt certain areas of copyright law to the new challenges of the information Society. They also form the basis for a number of the EU Directives established in recent years.

As further noted above, UK law is compliant with all relevant international provisions related to copyright and as such the CDPA 1988 as amended represents a firm basis for international integration. There is nothing in IPURL as prevented for review which would prevent it operating in the same way for Jersey.

CONCLUSIONS & RECOMMENDATIONS

The Scrutiny Panel is advised that with respect to the considerations identified in the Terms of Reference IPURL effectively translates the key provisions of the UK law into an efficient legislative proposal for Jersey.

That said, the Scrutiny Panel may wish to consider a number of areas for deeper investigation at this stage:

1. The question of future proofing and in particular whether there is a case at this stage of incorporating into IPURL analogous provisions those contained in the UK Digital Economy Act 2010, specifically relating to the use of technical measures.
2. What is the plan for the internationalising Jersey's new copyright regime based on IPURL: what are the objectives; what are the means and what are the timelines?
3. There may be a case for a deeper examination of the copyright law as proposed through IPURL and other areas of law, for example those related to online commerce and personal data protection. Many aspects of modern copyright law are closely interconnected with other areas of emerging regulation.
4. There may be a case, for example in relation to certain provisions in IPURL relation to licensing schemes and the Licensing to conduct an Economic Impact Assessment to ensure that what is proposed is consistent with the scale of actual need.

Annex A

Intellectual Property (Unregistered Rights) (Jersey) Law 201-

Comparison of Articles with UK Copyright Law

Article	UK Section	Comparison	Note
1		See Note	Restatement of definitions found in CDPA1988
2			Restatement of definitions found in CDPA1988
3		Idem	
4	Section 6	Idem	
5		Idem	
6.		Idem	
7		See Note	Art. 7 (1) localised in accordance with Education (Jersey) Law 1999
8			Corresponding provision not found in UK law
9		Idem	
10		See Note	Here and throughout reference to “lending” is excluded
11		Idem	
12			Corresponding provision not found in UK law
13		Idem	
14		Idem	
15		Idem	
16		Idem	
17		See Note	17 (3) (d) omits reference to “lending”
18		Idem	
19		Idem	
20	S. 153	Idem	
21	S. 154	See Note	21(2)(d) adds provision to making of

			order under Art 399
22		See Note	22(2)(b) adds provision for order under Art 399
23		Idem	
24	S. 11	Idem	
25	S.12	Idem	
26	S.13A	Idem	
27	S.13B	Idem	
28	S.14	Idem	
29		Idem	
30	S.16	Idem	
31	17	Idem	
32	18	See Note	Reference to “protected are” instead of EEA in UK Law
33	18A	See Note	Reference to “lending” omitted
34	19	Idem	
35	20	Idem	
36	21	Idem	
37	22	See Note	“into Jersey” substituted for “into the protected area” (UK)
38	23	Idem	
39	24	Idem	
40	25	Idem	
41	26	Idem	
42	27	See Note	Paragraphs (5) and (6) added
43	28	See Note	Reference to “except as expressly provided by this law” in paragraph(2)
44		See Note	Provides power to amend
45	28A	See Note	Reference to “other than a computer programme of database” omitted

46	29	See Note	Paragraph 1: Omits: “for a non-commercial purpose” after “research” Omits: “provided it is accompanied by sufficient acknowledgement” after work Adds: “or, in the case of a published edition, in the typographical arrangement”
47	30	See Note	Paragraph (1): Omits: “and provided that the work has been made available to the public” Paragraph 3 Omits: “where this would be impossible for reasons of practicality or otherwise”
49	31A	See Note	Omits after paragraph 2: “If the master copy is of a database or part of a database and making of the accessible copy would infringe copyright in the database”
50	31B	See Note	Paragraph (1)(a) Omits: “commercially published” Paragraph (1)(b) Omits: “commercially” General: Omits: Definition of “Approved Body” Reference to “lending”
51	31C	See Note	Adds paragraph 9: “A notice under paragraph (8)(b) shall be accompanied by the prescribed fee, if any”
52	31D	See Note	Paragraph (1)(a) substitutes “in operation” for “in force”

53	31E	Idem	
54	31F	See Note	Omits reference to “lending” Adds paragraph (6)(e): “who has a learning disability that mainly affects reading”
55	32	See note	Omits reference to requirement for acknowledgement and limitation to non-commercial Paragraph (6) omits reference to “communication to the public”
56		Idem	
57	35	Idem	
58		See Note	Omits requirement of acknowledgement and reference to limiting purposes to non-commercial purposes
59	36	See Note	Omits reference to “acknowledgement” and “non-commercial purposes” Paragraph (1) omits reference to “published” Paragraph (6) omits “communication to the public”
60	37	Idem	
61		See Note	Omits limitation of research to “non-commercial purposes” Adds paragraphs (2) and (3) providing for fees payable
62	39	See Note	In paragraph (1) omits reference to “part of” a work Omits reference to “non-commercial” in relation to research purposes Adds provisions for fees payable
63	40	Idem	
64	41	Idem	
65	42	Idem	

66	43	See Note	Article references “document, film, sound recording or other matter” as opposed to “literary, artistic or musical work” in UK law. Remainder of Article departs significantly from UK law
67	44	Idem	
68		See Note	Idem but adapted to local constitution
69		Idem	
70	47	See Note	Paragraph (2) adds: “or the communication of the material to the public” Paragraph (6) adds: Definition of enactment
71	48	See Note	Paragraph (2): substitutes “any copyright work” for literary, dramatic, musical or artistic work” adds “and communicate the work to the public” Paragraph (3) adds “and communicate the work to the public” Adds new paragraph 4 referencing previously available works that are no longer available
72	49	Idem	
73	50	Idem	
74	50A	Idem	
75	50B	Idem	
76	50BA	Idem	
77	50C	Idem	
78	50D	Idem	

79	51	Idem	
80	52	Idem	
81	53	Idem	
82	54	Idem	
83	55	Idem	
84	56	Idem	
85	57	Idem	
86	58	Idem	
87	59	Idem	
88	60	Idem	
89	61	See Note	Paragraph (4) (a) omits reference to non-commercial research
90	62	See Note	Paragraph (3) substitutes “ by anything done” for “the issue to the public of copies”
91	63	See Note	Paragraph (1) adds: “or to communicate it to the public”
92	64	Idem	
93	65	Idem	
94	66A	See Note	Omits reference to International Organisations
95	67	See Note	Omits various references in UK law Paragraph (2) (c) should be (2)(b)
96	68	Idem	
97	69	See Note	Paragraph (2)(a) omits reference to Paragraph 20 of Schedule 12 to the Communication Act 2003
98		Idem	
99		Idem	
100	72	See Note	Omits reference to “excepted sound recording”

101	73	See Note	Paragraph (2) omits reference to “if the re-transmission is in pursuance of a relevant requirement” Paragraph (3), line 3 omits “re-“ in relation to “transmit” General omission of reference to relevant requirement provisions in UK law Paragraph (4) omits reference to Part 3 of the Communications Act 2003 Royalty provisions of 73A in UK law omitted
102	74	See Note	Paragraph (1) omits reference to “lending”
103	75	Idem	
104	76	Idem	
105	77	Idem	
106	78	Idem	
107	79	Idem	
108	80	Idem	
109	81	See Note	Paragraph (7) adds definition of “disclaimer”
110	82	See Note	Paragraph (3) adds definition of “disclaimer”
111	83	Idem	
112	84	Idem	
113	85	Idem	
114	86	Idem	
115	87	Idem	
116	88	Idem	
117	89	Idem	
118	90	Idem	
119	91	Idem	

120	92	Idem	
121	93	Idem	
122	93A	Idem	
123	93B	Idem	
124	93C	See Note	Paragraph (2) substitutes “ the permission of the licensing authority” for “special leave of the [Copyright] Tribunal”
125	94	Idem	
126	95	See Note	Paragraph (1)(c)(i) and (ii) and paragraph (5) substitute references to “executors” and “administrators” for “personal representatives” in UK Law
127	96	Idem	
128	97	See Note	General – omits reference to injunction against service provider (UK law 97A) and undertaking to take licence of right (UK law 98)
129	99	Idem	
130	113	See Note	Substitutes period of 10 years limitation for 6 years in paragraphs (1) and (2)
131	100	Idem	
132	101	Idem	
133	101A	Idem	
134	102	Idem	
135	103	Idem	
136	104	Idem	
137	105	Idem	
138	106	Idem	
139	107	See Note	Generally substitutes “shall be guilty of” for “commits” Paragraphs (5) – (7) include variations to penalties Paragraphs (8) and (9) include provisions for corporate entities

140		See Note	Paragraph (3)(a) substitutes a longer period of limitation – 10 years for 6 years.
141	111	See note	Localisation of provisions via paragraphs (5) to (7)
142	112	Idem	
143	114	See Note	Paragraph (4) adds: “specified by rules of court” Paragraph (8) adds power of Royal Court to make rules
144	114A	See Note	Paragraph 2 omits reference to the Trade Descriptions Act Paragraph (7) adds reference to making an “application to state a case”.
145	116	Idem	
146	117	See Note	Omits reference to “lending”
147	118	Idem	
148	119	Idem	
149	120/ 128A	See Note	Omits reference to “excepted sound recordings”
150	121	Idem	
151	122	See Note	Paragraph (2) substitutes “permission” for “special leave”
152	123	See Note	Paragraph (6) substitutes “notified” for “certified”
153	124	See Note	Omits reference to “lending”
154	125	Idem	
155	126	See Note	Paragraph (3) substitutes “an application under paragraph(1)” for “reference”
156	127	Idem	
157	128	Idem	
158	129	Idem	
159	130	Idem	

160	131	Idem	
161	132	Idem	
162	133	See Note	Omits reference to “lending”
163	134	See Note	Omits reference to equivalent of S.73A of UK Law
164	135	Idem	
165	135A(5)	Idem	
166	135A	Idem	
167	135B	Idem	
168	135C	Idem	
169	135D	Idem	
170	135E	Idem	
171	135F	Idem	
172	135G	idem	
173	135H	See Note	Does not subject power of Minister to amend by Order to “transitional provisions”.
174	136	Idem	
175	137	See Note	Paragraph (1) substitutes “copies of copyright works” for “reprographic copies of published literary, dramatic, musical and artistic works”
176	138	See Note	Paragraph (1) substitutes “revocation” for “discharge”
177	139	See Note	Paragraph (2) substitutes “determination” for “order” and substitutes “Court” for the “Tribunal” Paragraph (4) substitutes “determination” for “order”
178	140		Paragraph (1): Adds “communication to the public” Substitutes “copies of copyright works” for (a) Published literary, dramatic,

			musical and artistic works (b) Typographical arrangements Paragraph (4) (a) adds “communication to the public; omits reference to reprographic copies and non-commercial purposes.
179	141	See Note	Paragraph (1) adds “communicating to the public” Paragraph (2) (a) substitutes: “A licensing scheme notified for the purposes of this Article in accordance with Article 180 has been established” for “certified” Paragraph (3) adds “communicating to the public” Paragraph (5) adds “communicating to the public” Paragraph (6) adds “otherwise than in accordance with an Order under paragraph (1)” Paragraph (8) omits “and may be revoked” Paragraph (9) added
180		See Note	No corresponding provision in UK law
181	144A	See Note	Cable re-transmission right exists in respect of use as specified in paragraphs (1)(a) and (b).
182		See Note	No corresponding provision in UK law
183		See Note	No corresponding provision in UK law
184	163	See Note	Paragraph (5) applies term provisions to film; no corresponding provision in UK law
185	167	See Note	Provisions adapted to Jersey constitution
186		See Note	No corresponding provision in UK law
187	164	See Note	Paragraph (1) adds:

			Order in Council Paragraph (20 restates same substantive provision as adapted pursuant to paragraph (1)
188	168	See Note	Paragraph (1) adds “prescribed” [international organisations]
189	169	See Note	Paragraph (4) substitutes “person” for “individual”
190	296A	Idem	
191		Idem	
192	SI 1997/3032 Part III 12	See Note	Paragraph (1) adds: “licensing body” “licensing scheme” “qualifying country” “qualifying person” Paragraph (2): no corresponding provision in UK law
193	SI 1997/3032 Part III 13	Idem	
194	SI 1997/3032 Part III 14	See Note	Paragraphs (3)(4) and (5) added
195	SI 1997/3032 Part III 15	idem	
196	SI 1997/3032 Part III 16	Idem	
197	SI 1997/3032 Part III 17	Idem	
198	SI 1997/3032 Part	See Note	Article localised for Jersey

	III 18		
199	SI 1997/3032 Part III 19	Idem	
200			No corresponding provision in UK Law
201			No corresponding provision in UK Law
202			No corresponding provision in UK Law
203			No corresponding provision in UK Law
204	SI 1997/3032 Part III Schedule 1 1	Idem	
205	SI 1997/3032 Part III Schedule 1 2	See Note	Paragraph 2 adds: “all or a substantial part of”
206	SI 1997/3032 Part III Schedule 1 3	See Note	Paragraph (4) adds definition of “enactment”
207	SI 1997/3032 Part III Schedule 1 4	See Note	Paragraph (3) substitutes “made available to the public” for published Paragraph (4) conditions paragraph (3) where there is no corresponding provision in UK law
208	SI 1997/3032 Part III Schedule 1 5	See Note	Adds: “without prejudice to the generality of Article 206”
209	SI 1997/3032 Part III	Idem	

	Schedule 1 6		
210	SI 1997/3032 Part III 21	Idem	
211			No corresponding provision in UK law
212			No corresponding provision in UK law
213	SI 1997/3032 Part III 22	Idem	
214	SI 1997/3032 Part III Schedule 2 1	Idem	
215			No corresponding provision in UK law
216			No corresponding provision in UK law
217			No corresponding provision in UK law
218			No corresponding provision in UK law
219	SI 1996/2967 16	See Note	Paragraph (2)(c) substitutes “loan” for “lending”
220			No corresponding provision in UK law
221			No corresponding provision in UK law
222			No corresponding provision in UK law
223			No corresponding provision in UK law
224			No corresponding provision in UK law
225			No corresponding provision in UK law
226	296/ 296ZF	See Note	Article 226 combines various definitions distributed through the relevant part of the UK law
227	296 (1) – (2)	Idem	

228	296 (3)	Idem	
229	296 (4) – (5)	Idem	
230			No corresponding provision in UK law
231	296ZD (1) – (2)	Idem	
232	296ZD (3)	Idem	
233			No corresponding provision in UK law
234			No corresponding provision in UK law
235	296ZB	See Note	Paragraph (1) (c) omits “advertises for sale of hire” Paragraph (2): no corresponding provision in UK law Paragraph (4) : no corresponding provision in UK law Paragraph (8) – (10): no corresponding provision in UK law
236			No corresponding provision in UK law
237			No corresponding provision in UK law
238			No corresponding provision in UK law
239			No corresponding provision in UK law
240			No corresponding provision in UK law
241			No corresponding provision in UK law
242			No corresponding provision in UK law
243	296ZE	See Note	Paragraph (3) adds: “ A notice of complaint issued under paragraph (2) shall be accompanied by the prescribed fee” Paragraph (5),(10),(15),(16): no corresponding provision under UK law
244	296ZE (11)	See Note	Paragraphs (1) – (3) restate the substance of UK law Paragraph (4) adds and defines “permitted acts”

245	296ZG (1) – (4)	Idem	
246	296ZG (5)	Idem	
247	296ZG (6)	See Note	Substance of UK law restated
248	296ZG (8) –(9)	Idem	
249			No corresponding provision in UK law
250	297	See Note	Paragraph (1) substitutes “shall be guilty of” for “commits” and specifies fine of level 4 for fine of level 5 Paragraph (2): no corresponding provision in UK law
251	297A	See Note	Paragraph (1) substitutes “shall be guilty of” for “commits” Paragraphs (4) – (5) introduce relevant provision of UK law relating to corporate entities
252	297C	See Note	Paragraph (2) omits provision relating to the Trade Descriptions Act
253	298/ 299(4)	See Note	Paragraph (4) adds provision of UK law s. 299 (4)
254			No corresponding provision in UK law
255	197	Idem	
256	191A		Paragraph (2) adds “In this Part, “performer’s non-property rights” means the rights conferred by Articles 265 to 267”
257	181	Idem	
258			No corresponding provision in UK law
259	180 (4)	Idem	
260			No corresponding provision in UK law
261	182B	Idem	
262	182C	See Note	Paragraph (1) omits “or lends”
263	182CA	Idem	

264	182D	Idem	
265	182	Idem	
266	183	Idem	
267	184	Idem	
268	185	Idem	
269	186	Idem	
270	187	Idem	
271	188	Idem	
272	191	Idem	
273	189 Schedule 2 1	Idem	
274			No corresponding provision in UK law
275	Schedule 2 1A	idem	
276	Schedule 2 2	See Note	Paragraph (1) omits “provided that the performance has been made available to the public” Paragraph (3) adds “An agreement is void to the extent that it purports to prohibit or restrict an act which would, apart from this Article, infringe any right conferred by Chapter 2
277	Schedule 2 3	Idem	
278	Schedule 2 4	See Note	Paragraph (1) omits “and the instruction is for a non-commercial purpose”
279	Schedule 2 5		Paragraph (3) adds Any provision made under Article 7(2) with respect to the application of Article 57 also applies for the purposes of this Article

280	Schedule 2 6	Idem	
281	Schedule 2 7	Idem	
282	Schedule 2 8	Idem	
283	Schedule 2 9	See Note	Paragraph (2) adds “The rights conferred by Chapter 2 are not infringed by the issue or communication to the public of copies of the report of a committee of inquiry or public inquiry”
284	Schedule 2 10	Idem	
285			No corresponding provision in UK law
286	Schedule 2 11	See Note	Provision substitutes “enactment” for Act of Parliament
287	Schedule 2 12	Idem	
288	Schedule 2 13	Idem	
289	Schedule 2 14	Idem	
290	Schedule 2 15	See Note	Provision omits “(b) that the sound recording is played by a person who is acting primarily and directly for the benefit of the organisation and who is not acting with a view to gain” “(d) that the proceeds from any goods or services sold by, or on behalf of, the organisation - (i) in the place where the sound recording is heard, and (ii) on the occasion when the sound

			recording is played, are applied solely for the purposes of the organisation.”
291	Schedule 2 16	Idem	
292	Schedule 2 17	Idem	
293	Schedule 2 17A	Idem	
294	Schedule 2 17B	Idem	
295	Schedule 2 18	See Note	Provision omits reference to “excepted sound recording”
296	Schedule 2 19		Provision omits “(3) Where - (a) the re-transmission by cable is in pursuance of a relevant requirement, but (b) to any extent, the area in which the re-transmission by cable takes place (“the cable area”) falls outside the area for reception in which the broadcast is made (“the broadcast area”), the re-transmission by cable (to the extent that it is provided for so much of the cable area as falls outside the broadcast area) of any performance or recording included in the broadcast shall, subject to sub-paragraph (4), be treated as licensed by the owner of the rights conferred by Part II in relation to the performance or recording, subject only to the payment to him by the person making the broadcast of such reasonable royalty or other payment in respect of the re-transmission by cable of the broadcast as may be agreed or determined in default of agreement by

			the Copyright Tribunal. (4) Sub-paragraph (3) does not apply if, or to the extent that, the re-transmission of the performance or recording by cable is (apart from that sub-paragraph) licensed by the owner of the rights conferred by Part II in relation to the performance or recording.”
297	Schedule 2 20	Idem	
298	Schedule 2 21	Idem	
299	191B	See Note	Paragraph (1) omits “personal”
300	191C	Idem	
301	191D	See Note	Paragraph (1) adds “apart from Chapter 7”
302	191E	Idem	
303	191F	See Note	Paragraph (1) substitutes “is” for “shall be”
304	191G	Idem	
305	191H	Idem	
306	192A	See Note	Paragraph (5) substitutes “an executor or administrator” for “personal representatives”
307	192B	Idem	
308	193	Idem	
309	190	Idem	
310	191I	Idem	
311	191J	Idem	
312	191L	Idem	
313	191M	Idem	
314	194	Idem	
315	195	Idem	

316	203	See Note	Paragraphs (1) and (2) substitute 10 years for 6 years
317	196	Idem	
318	198	See Note	Paragraph (7) substitutes 10 years for 2 years in relation to an offence under paragraph (2) Paragraph (8) substitutes level 4 for level 5 Paragraphs (9) and (10) extend application to corporate entities and officers thereof
319	199	Idem	
320	201	See Note	Paragraph (2) substitutes level 4 for level 5
321	204	See Note	Paragraph (3) adds “specified in the rules” Paragraph (7) adds The power in the Royal Court (Jersey) Law 1948 to make rules of court shall include the power to make rules for the purposes of this Article
322	204A	Idem	
323			No corresponding provision in UK law
324	Schedule 2A 1	Idem	
325	Schedule 2A 2	Idem	
326			No corresponding provision in UK law
327			No corresponding provision in UK law
328			No corresponding provision in UK law
329	205C	Idem	
330	205D	Idem	
331	205E	Idem	

332	205F	Idem	
333	205G	Idem	
334	205H	Idem	
335	205I	Idem	
336	205J	Idem	
337	205K	Idem	
338	205L	Idem	
339	205M	Idem	
340	205N	Idem	
341			Provision collects various definitions spread through different sections of UK law
342			Provision collects various definitions relating to Crown Use, States Use etc. spread through different sections of UK law
343			No corresponding provision in UK law
344	228	Idem	
345	260	Idem	
346	213	Idem	
347	215 SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989	See Note	Paragraph (5) adds reference to semi-conductor topographies
348	216/ SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989 6	Idem	

349	218	Idem	
350	219/ SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989 4 (3)	Idem	
351	220	See Note	Paragraph (5) adds provision for adapting paragraphs (1)(a) and (4)(b) to semiconductor topographies
352	SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989 7	Idem	
353	SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989 8	Idem	
354	227 SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989 8 (2)	Idem	
355	SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989 8(5)		

356		See Note	No corresponding provision in UK law
357		See Note	No corresponding provision in UK law
358	SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989 8(4)	Idem	
359	236	Idem	
360	237 SI 1989/ 1100 The Design Right (Semiconductor Topographies) Regulations 1989 9	Idem	
361	254	See Note	Paragraph (3) adds definition of “advertisement” and omits reference to definitions in UK Trade Descriptions Act
362		See Note	Corresponding provision not found in UK law
363		See Note	Corresponding provision not found in UK law
364		See Note	Corresponding provision not found in UK law
365	240	See Note	Paragraph (1) adds reference to powers of Minister
366	241	See Note	Paragraph (3) adds provision for use of designs by States
367	242	See Note	Paragraph (1) adds reference to States’ use
368	243	Idem	
369			No corresponding provision in UK law
370	222	Idem	
371	223	Idem	

372	224	Idem	
373	225	Idem	
374	229	Idem	
375	233	Idem	
376	230	See Note	Paragraph (3) substitutes “10 years” for “6 years”
377	231	See Note	Paragraph (8) adds: “The power in the Royal Court (Jersey) Law 1948 to make rules of court shall include the power to make rules for the purposes of this Article
378	238	Idem	
379	235	Idem	
380		See Note	No corresponding provision in UK law
381		See Note	No corresponding provision in UK law
382		See Note	No corresponding provision in UK law
383		See Note	No corresponding provision in UK law
384		See Note	No corresponding provision in UK law
385	151	Idem	No corresponding provision in UK law
386		See Note	No corresponding provision in UK law
387		See Note	No corresponding provision in UK law
388		See Note	No corresponding provision in UK law
389		See Note	No corresponding provision in UK law
390		See Note	No corresponding provision in UK law
391	171	See Note	Paragraph (1)(a) adds: “and subject to any transitional provisions made in respect thereof under Article 408” Paragraph (1)(c) substitutes “the States Assembly” for “either House of Parliament”

			Paragraph (1)(d) substitutes “Agent of the Impôts” for “the Crown” Paragraph (2) substitutes “statutory provision” for “enactment”
392		See Note	No corresponding provision in UK law
393	161/162	Idem	
394		See Note	No corresponding provision in UK law
395	176	See Note	Paragraphs (1) (b) and (c) added
397		See Note	No corresponding provision in UK law
398	109; 198(1);296ZC; 297A; 297B Copyright etc. Trade Marks (Offences and Enforcement) Act 2002	Idem	
399-411		See Note	No corresponding provisions in UK law
Schedule 1			No corresponding provision in UK law
Schedule 2			No corresponding provision in UK law