



Jersey

INTELLECTUAL PROPERTY (UNREGISTERED RIGHTS) (MISCELLANEOUS PROVISIONS) (JERSEY) ORDER 2012

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Made

Coming into force

THE MINISTER FOR ECONOMIC DEVELOPMENT, in pursuance of Articles 7, 60 to 66, 80, 103, 131, 317 and 400 of the Intellectual Property (Unregistered Rights) (Jersey) Law 2011, orders as follows –

1 Interpretation

(1) In this Order –

“The Jersey Heritage Trust” means the trust accorded an act of incorporation by the Loi (1983) accordant un Acte d’Incorporation à l’Association dite “The Jersey Heritage Trust”;

“Law” means the Intellectual Property (Unregistered Rights) (Jersey) Law 2011.

(2) For the purposes of this Order, a library or archive is conducted for profit if it is established or conducted for profit or forms part of, or is administered by, a body established or conducted for profit.

2 Educational establishments and teachers – Article 7 of Law

(1) The following descriptions of establishment are prescribed for the purposes of Article 7(1)(b) of the Law –

(a) any establishment in Jersey, to the extent that it provides instruction in one or more courses of higher education;

(b) any establishment in Jersey, to the extent that it provides instruction in one or more courses of vocational education; and

(c) any establishment in Jersey, to the extent that it provides instruction in more or more courses of continuing education.

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- (2) The provisions of Part 1 of the Law relating to educational establishments shall apply in relation to States employees who are peripatetic teachers as they apply in relation to such establishments.
- (3) In this Article –
- (a) “continuing education”, “higher education” and “vocational education” have the same meaning as in the Education (Jersey) Law 1999;
 - (b) “peripatetic teacher” means a person employed to give instruction, otherwise than in an educational establishment, to pupils who are unable to attend such an establishment.

3 Supply of copies by librarians – Articles 61 and 62 of Law

- (1) The following libraries are prescribed for the purposes of Articles 61 and 62 of the Law –
- (a) the public library service of Jersey;
 - (b) a library in a school in Jersey;
 - (c) a library in an establishment prescribed in Article 2(1), to the extent that the library is provided for the purposes of the instruction described in that provision;
 - (d) a library provided by and for the purposes of an administration of the States or the States Assembly;
 - (e) a library provided by The Jersey Heritage Trust; and
 - (f) any other library in Jersey, if it is not conducted for profit.
- (2) The following conditions must be complied with when a librarian makes and supplies a copy of any material to a person (the “recipient”) pursuant to Article 61 or 62 of the Law –
- (a) the recipient must have delivered to the librarian a declaration, in writing, in relation to the material, in the form in Schedule 1 and signed as indicated in that form;
 - (b) the librarian must be satisfied that the recipient requires the copy of the material for the purposes of research or private study and will not use it for any other purpose;
 - (c) the librarian must be satisfied that the recipient is not furnished –
 - (i) under Article 61 of the Law, with more than one copy of an article or more than one article contained in the same issue of a periodical, or
 - (ii) under Article 62 of the Law, with more than one copy of the same material or with a copy of more than a reasonable proportion of any work; and
 - (d) the librarian must be satisfied that the requirements of the recipient and of any other person –
 - (i) are not similar, that is to say, are not for copies of substantially the same material at substantially the same time and for substantially the same purposes, and

- (ii) are not related, that is to say, the recipient and the other person do not receive instruction to which the material is relevant at the same time and place.
- (3) Unless the librarian is aware that the signed declaration delivered by an recipient pursuant to paragraph (2)(a) is false in a material particular, the librarian may rely on it as to the matter the librarian is required to be satisfied of under paragraph (2)(b) before making or supplying the copy.

4 Supply of copies by librarians – Article 64 of Law

- (1) All libraries in Jersey are prescribed as libraries the librarians of which may make and supply copies of material pursuant to Article 64(1) of the Law.
- (2) The following libraries are prescribed as libraries to which copies of material may be supplied pursuant to Article 64(1) of the Law –
 - (a) any library specified in Article 3(1); and
 - (b) any library that is outside Jersey and is not conducted for profit.
- (3) The following conditions must be complied with when a librarian makes and supplies to another library (the “receiving library”) a copy under Article 64 –
 - (a) the receiving library must not be furnished with more than one copy of the material; and
 - (b) where the requirement is for a copy of more than one article in the same issue of a periodical, or for a copy of the whole or part of a published edition, the librarian of the receiving library must furnish a written statement to the effect that –
 - (i) it is a prescribed library, within paragraph (2), and
 - (ii) the librarian does not know, and could not by reasonable inquiry ascertain, the name and address of a person entitled to authorize the making of the copy.

5 Supply of copies by librarians or archivists – Article 65 of Law

- (1) All libraries and archives in Jersey are prescribed as libraries and archives the librarians or archivists of which may make a copy from an item for either of the purposes in Article 65(1) of the Law.
- (2) The following libraries and archives are prescribed as libraries and archives to which copies of material may be supplied pursuant to Article 65(1)(b) of the Law –
 - (a) any library specified in Article 3(1);
 - (b) any archive provided by The Jersey Heritage Trust;
 - (c) any other archive in Jersey, if it is not conducted for profit; and
 - (d) if or to the extent that it does not fall within sub-paragraph (b) or (c), any archive of a public institution of its public records, within the meaning of the Public Records (Jersey) Law 2002;

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- (e) any library or archive that is outside Jersey, if it is not conducted for profit.
- (3) The following conditions must be complied with when a librarian or archivist makes a copy of an item for either of the purposes in Article 65(1) of the Law –
- (a) that it is not reasonably practicable for the librarian or archivist to purchase a copy of that item to fulfil the purpose in Article 65(1)(a) or (b) of the Law;
 - (b) that the item in question –
 - (i) is an item in the part of the permanent collection maintained by the library or archive wholly or mainly for the purposes of reference on the premises of the library or archive, or
 - (ii) is an item in the permanent collection of the library or archive which is available on loan only to other libraries or archives; and
 - (c) that, in the case of a copy made for the purpose in Article 65(1)(b) of the Law, librarian of the library or the archivist of the archive prescribed in paragraph (2) furnishes a written statement to the effect that –
 - (i) the item has been lost from that library or archive, destroyed or damaged,
 - (ii) it is not reasonably practicable for the library or archive to purchase a copy of that item, and
 - (iii) if a copy is supplied it will only be used to fulfil the purpose in Article 65(1)(b) of the Law.

6 Supply of copies by librarians or archivists – Article 66 of Law

- (1) All libraries and archives in Jersey are prescribed for the purposes of Article 66 of the Law.
- (2) The following conditions must be complied with when a librarian or archivist makes and supplies a copy of material to a person (the “recipient”) under Article 66(1) of the Law –
 - (a) the recipient must have delivered to the librarian or archivist a declaration, in writing, in relation to the material, in the form in Schedule 2, and signed as indicated in the form;
 - (b) the librarian or archivist must be satisfied that the recipient requires the copy for the purposes of research or private study and will not use it for any other purpose; and
 - (c) the recipient must not be furnished with more than one copy of the same material.
- (3) Unless the librarian or archivist is aware that the signed declaration delivered pursuant to paragraph (2)(a) is false in a material particular, the librarian or archivist may rely on it as to the matter he or she is required to be satisfied of under paragraph (2)(b) before making or supplying the copy.

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- (4) In paragraph (2) “material” means any document, film, sound recording or other matter in the library or archive.

7 Designs made by industrial process – Article 80 of Law

- (1) An article is to be regarded, for the purposes of Article 80 of the Law, as made by an industrial process if –
- (a) it is one of more than 50 articles which –
 - (i) all fall to be treated, for the purposes of Part 1 of the Law, as copies of a particular artistic work, but
 - (ii) do not, all together, constitute a single set of articles as defined in Article 1(1) of the Registered Designs (Jersey) Law 1957; or
 - (b) it consists of goods manufactured in lengths or pieces, not being hand-made goods.
- (2) There are excluded from the operation of Article 80 of the Law –
- (a) works of sculpture, other than casts or models used or intended to be used as models or patterns to be multiplied by any industrial process;
 - (b) wall plaques, medals and medallions; and
 - (c) printed matter primarily of a literary or artistic character, including book jackets, calendars, certificates, coupons, dress-making patterns, greeting cards, labels, leaflets, maps, plans, playing cards, postcards, stamps, trade advertisements, trade forms and cards, transfers and similar articles.
- (3) Paragraph (1) shall not be taken to limit the meaning of “industrial process” in paragraph (2)(a).

8 Archiving of recordings of broadcasts – Article 103 of Law

- (1) All broadcasts, other than encrypted transmissions, are broadcasts of a designated class for the purpose described in Article 103(1) of the Law.
- (2) The following bodies are designated for the purposes of Article 103(1) of the Law –
- (a) the public library service of Jersey; and
 - (b) The Jersey Heritage Trust.

9 Notice of seizure of infringing copy or illicit recording – Articles 131 and 317 of Law

A notice required by Article 131(5) or 317(5) of the Law shall be in the form and contain the particulars in Schedule 3.

10 Citation and commencement

This Order may be cited as the Intellectual Property (Unregistered Rights) (Miscellaneous Provisions) (Jersey) Order 2012 and shall come into force on the same day as the Law.

Signed.....

Date.....

Minister for Economic Development

SCHEDULE 1

(Article 3(2)(a))

DECLARATION: COPY OF ARTICLE OR PART OF PUBLISHED WORK

TO:

The Librarian of Library (address of library)

Please supply me with a copy of [the article in the periodical] [the part of the published work]¹ the particulars of which are –

.....
.....

required by me for the purposes of research or private study.

I DECLARE THAT –

- (a) I will not use the copy except for research or private study and will not supply a copy of it to any other person;
- (b) I have not previously been supplied with a copy of the same material by you or any other librarian; and
- (c) to the best of my knowledge, no other person with whom I work or study has made or intends to make, at or about the same time as this request, a request for substantially the same material for substantially the same purpose.

I UNDERSTAND THAT if this declaration is false in a material particular the copy supplied to me by you will be an infringing copy AND THAT I shall be liable for infringement of copyright as if I had made the copy myself.

Signature

(This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is not acceptable.)

Date

Name

Address

.....

¹ delete whichever does not apply

SCHEDULE 2

(Article 6(2)(a))

DECLARATION: COPY OF WHOLE OR PART OF MATERIAL NOT PREVIOUSLY MADE AVAILABLE TO THE PUBLIC

TO:

The Librarian/Archivist of Library/Archive
(address of library/archive)¹

Please supply me with a copy of the whole/part¹ of the document/film/sound recording/other material¹ which has not previously been made available to the public the particulars of which are –

.....
.....

required by me for the purposes of research or private study.

I DECLARE THAT –

- (a) I will not use the copy except for research or private study and will not supply a copy of it to any other person;
- (b) I have not previously been supplied with a copy of the same material by you or any other librarian or archivist; and
- (c) to the best of my knowledge –
 - (i) copies of the material were not issued to the public, and the material was not made available to the public by way of an electronic retrieval system, before the document was deposited in your library/archive¹, and
 - (ii) the owner of a copyright work recorded or comprised in the material has not prohibited copying of the work.

I UNDERSTAND THAT if this declaration is false in a material particular the copy supplied to me by you will be an infringing copy AND THAT I shall be liable for infringement of copyright as if I had made the copy myself.

Signature

(This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is not acceptable.)

Date Name

Address

.....

¹ delete whichever does not apply

SCHEDULE 3

(Article 9)

NOTICE OF SEIZURE

TO WHOM IT MAY CONCERN

Goods in which you were trading have been seized. This notice tells you who carried out the seizure, the legal grounds on which this has been done and the goods which have been seized and detained. As required by the Intellectual Property (Unregistered Rights) (Jersey) Law 2011 (the “Law”), notice of the proposed seizure was given to the Connétable of the parish of –

..... (insert name of parish)

The seizure was carried out by –

Name

Address

.....

acting on the authority of¹ –

Name

Address

.....

Legal grounds for seizure and detention

This action has been taken under Article 131/317² of the Law which, subject to certain conditions, permits a copyright owner, or a person having performing rights or recording rights to seize and detain infringing copies or illicit recordings found exposed or immediately available for sale or hire, or to authorize such seizure. The right to seize or detain is subject to a decision of the Royal Court under Article 143/321² of the Law (order as to disposal of goods seized and detained).

Nature of the goods seized and detained

The following [infringing copies of works (within the meaning of the Article 42 of the Law)] [illicit recordings (within the meaning of Article 255 of the Law)]² have been seized –

.....

.....

Signed

Date

¹ complete if the seizure was carried out on the authority of another person

² delete whichever does not apply

