The need for a new Copyright Act: a case study in law reform

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There were three United Kingdom Copyright Acts in the twentieth century. It is now 26 years since the Copyright, Designs and Patents Act 1988 was passed. The major thesis of this lecture is that it is time for a new Copyright Act. The minor thesis is that we need to re-think our approach to copyright law reform. Both theses are illustrated by the history of UK copyright legislation over the last 140 years.

Keywords: copyright, copyright reform, United Kingdom, Copyright, Designs and Patents Act 1988

INTRODUCTION

There were three United Kingdom Copyright Acts in the twentieth century. It is now 26 years since the Copyright, Designs and Patents Act 1988 was passed. The major thesis of this lecture is that it is time for a new Copyright Act. The minor thesis is that we need to re-think our approach to copyright law reform. Both theses are illustrated by the history of UK copyright legislation over the last 140 years.

MODELS AND METHODS OF LAW REFORM

Before I turn to consider that history, I want to say a few general words about models and methods of law reform. It seems to me that, speaking very broadly, there are two main models of law reform. The first is incremental and the second is holistic. The incremental approach proceeds a stage at a time. Typically, the stages involve different aspects of the field in question. Changes are introduced successively over a period of time. The holistic approach considers the field as a whole and makes changes in one go. Both approaches have their advantages and disadvantages. For example, incremental reform means that each measure can address a manageable amount of subject matter and the effects of individual measures are easier to assess, whereas holistic reform makes it easier to balance different aspects which interact with each other. These advantages and disadvantages are well illustrated by the field of copyright.

As for methods of law reform, a variety of methods have been adopted by the UK at different times and for different purposes. I would like to draw particular attention to three kinds of bodies which are asked to consider the law and recommend...
changes: first, Royal Commissions and departmental committees; secondly, the Law Commission; and thirdly, individual reviewers.

Royal Commissions and departmental committees are ad hoc advisory committees appointed by virtue of non-statutory powers of the Crown and its ministers respectively. Royal Commissions are one of the oldest institutions of Government in the UK (William I’s 1085 mandate for the creation of the Domesday Book is usually cited as the first). They were very popular in the nineteenth century, when 399 were appointed. They continued to be fairly popular in the period from 1900 to 1969, when 135 were appointed. Since then, however, only 10 have been appointed. As for departmental committees, they are a more recent institution. While some were created in the nineteenth century, departmental committees flowered in the period from 1900 to 1969, when no less than 1476 were appointed. Since then, their popularity has declined almost as much as that of Royal Commissions, although statistics are hard to come by. The reasons why Royal Commissions and departmental committees used to be so popular are not hard to find. They were very flexible and adaptable institutions; they provided a mechanism for public participation in Government; they were independent, impartial and transparent.

1. In addition to the three kinds of body listed in the text, it is worth noting that in the nineteenth century it was common for Parliamentary Select Committees to consider issues of law reform, including in the field of copyright. A list of Select Committee reports on intellectual property issues is to be found in Brad Sherman and Lionel Bently, The Making of Modern Intellectual Property Law (Cambridge University Press, 1999) at 235–6.


3. Clokie and Robinson, note 2 above, at 28; Cartwright, note 2 above, at 32.

4. Cartwright, note 2 above, Table 3.1, p. 36.

5. Riddell and Barlow, note 2 above.

6. Cartwright, note 2 above, Table 3.1, p. 36.

7. Nevertheless departmental committees do continue to be appointed. An important recent example is the Commission on Devolution in Wales established by the Secretary of State for Wales, the Rt Hon Cheryl Gillan MP, on 11 October 2011 and chaired by Paul Silk. The Silk Commission published two reports, Financial Powers to Strengthen Wales and Legislative Powers to Strengthen Wales, on 19 November 2012 and 3 March 2014 respectively.

8. Although Royal Commissions and departmental committees were classified by Clokie and Robinson, note 2 above, into three types, namely expert, representative and impartial, it is clear from the subsequent literature that this is not a hard-and-fast classification and that many commissions and committees display all three attributes to a greater or less extent.
their members brought a range of expertise and viewpoints to bear on problems without being paid; and it was up to the Government whether to accept their recommendations in whole, in part or not at all. Why they have declined in popularity is less easy to say.9

The Law Commission is a permanent independent statutory body which was created by the Law Commissions Act 1965.10 Its aims are to ensure that the law is as fair, modern, simple and as cost-effective as possible, to conduct research and consultations in order to make systematic recommendations for consideration by Parliament, and to codify the law, eliminate anomalies and repeal obsolete and unnecessary enactments. It consists of five Commissioners, chaired by a judge of the Court of Appeal, appointed for between three and five years. They are supported by a Chief Executive and about 20 members of the Government Legal Service, two Parliamentary Counsel, and a number of research assistants. The Commission engages in programmes of work which it decides upon and undertakes projects referred to it by Government departments. Typically, each project involves a review of the relevant area of law, the issuing of a consultation paper setting out the law, its perceived defects and possible solutions, and the publication of a final report setting out recommendations, frequently accompanied by a draft Bill.11

Over the last decade or so, the Government has sometimes asked individual reviewers, rather than Royal Commissions, departmental committees or the Law Commission, to review certain areas of the law. As I shall relate, copyright provides two examples of this approach, but it is not confined to copyright.12 It is not entirely clear why this approach has become popular, but it appears that the perception that an individual reviewer can report more quickly than a commission or committee is an important factor.

9. Note, however, that public inquiries – whether constituted under the Inquiries Act 2005 or its predecessor the Tribunals of Inquiry (Evidence) Act 1921 (such as the Saville Inquiry into Bloody Sunday) or not so constituted (such as the Hutton Inquiry into the death of David Kelly) – remain a well-used institution. Public inquiries differ from Royal Commissions and departmental committees in a number of respects. Typically, they are led by a single individual; they are investigations into a specific event or series of events; they are primarily concerned with fact-finding; and, while they may make recommendations, such recommendations are not necessarily of a legislative nature. Another procedure which continues to be used is the private inquiry by a committee of Privy Counsellors (such as the Chilcot Inquiry into the Iraq conflict). By contrast with departmental committees, a major concern over such inquiries is their cost. See Oonagh Gray and Chris Sear, 'Investigatory Inquiries and the Tribunals of Inquiry (Evidence) Act 1921' (House of Commons Library Standard Note SN/PC/02599).


11. The work of the Law Commission, and the implementation of its recommendations, was described by its current Chairman, the Rt Hon Sir David Lloyd Jones, in his Sir William Dale Annual Lecture on 22 November 2012 (available on the Law Commission website).

12. Another example is the Independent Review of the Commercialisation and Sexualisation of Childhood by Reg Bailey, whose report Letting Children be Children was presented to Parliament in June 2011 (Cm 8078), although this was more concerned with regulatory and ‘soft law’ questions than black letter law.
THE ORIGINS OF THE COPYRIGHT ACT 1911

The origins of the Copyright Act 1911 lie in the report of a Royal Commission which was appointed by the second Disraeli administration in October 1875 ‘to make Inquiry with regard to the Laws and Regulations relating to Home, Colonial and International Copyright’. The Commission was reconstituted in April 1876 following the death of the original Chairman in December 1875 and the withdrawal of three other members by the end of February 1876. The new Chairman was Lord John Manners (an experienced cabinet minister who was Postmaster-General at the time). The other members were the Earl of Devon (a former civil servant and politician), Sir Charles Lawrence Young Bt (a former barrister and a railway director), Sir Henry Thurston Holland Bt MP (a former barrister and civil servant), Sir John Rose Bt (an international banker who had been a Canadian barrister, MP and minister), Sir Henry Drummond Wolff MP (a former diplomat), Sir Louis Mallet (a civil servant), James Stephen QC (the barrister, journalist and jurist), Sir Julius Benedict (a conductor, composer and author), Farrer Herschell QC MP, Edward Jenkins MP (a former barrister and an author), William Smith (an eminent classical and biblical scholar), James Anthony Froude (the historian and biographer), Anthony Trollope (the novelist) and Frederick Daldy (a publisher). The membership of the Commission was broadly representative of a range of copyright, legal and political interests, although there were some odd omissions, and a number of the members had had some previous involvement in copyright law.

13. The decision to set up the Royal Commission was taken by the Prime Minister largely as a result of a deputation he received from representatives of the Association to Protect the Rights of Authors on 10 May 1875 and of a question asked in Parliament by Edward Jenkins MP on the same day, although the Copyright Association had written to the Prime Minister requesting the same thing in February 1875.

14. The Commissioners appointed in 1875 were Earl Stanhope, the Earl of Roseberry, Robert Bourke, Sir Charles Young, Sir Henry Holland, Sir John Rose, Sir Henry Drummond Wolff, Sir Louis Mallet, Sir Julius Benedict, Thomas Farrer, James Stephen, Farrer Herschell, William Smith and Frederick Daldy.

15. He had also been called to the Bar.

16. He was knighted in January 1877 and appointed as Stephen J in January 1879.

17. Subsequently Solicitor-General from 1880 to 1885 and Lord Chancellor for a brief period in 1886 and again from 1892 to 1895.


19. Notably of anyone representing the visual arts, drama, journalism or libraries and museums.

20. For example, Trollope had been an advocate of international copyright: see Lauriat, note 18 above, at 48–52.
The Commission held 48 hearings at which it heard evidence from 50 witnesses in public and the minutes of which were published.\(^{21}\) The Commissioners presented their Report in May 1878.\(^{22}\) In it, the Commission first considered domestic copyright, and began by observing:

5. The law of England, as to copyright in the matters above enumerated,\(^{23}\) consists partly of the provisions of fourteen Acts of Parliament, which relate in whole or in part to different branches of the subject, and partly of common law principles, nowhere stated in any definite or authoritative way, but implied in a considerable number of reported cases scattered over the law reports.

6. Our colleague, Sir James Stephen, has reduced this matter to the form of a Digest, which we have annexed to our report, and which we believe to be a correct statement of the law as it stands.\(^{24}\)

7. The first observation which a study of the existing law suggests is that its form, as distinguished from its substance, seems to us bad. The law is wholly destitute of any sort of arrangement, incomplete, often obscure, and, even when it is intelligible upon long study, it is in many parts so ill-expressed that no one who does not give such study to it can expect to understand it.

…

9. The fourteen Acts of Parliament which deal with the subject were passed at different times between 1735 and 1875. They are drawn in different styles, and some are drawn so as to be hardly intelligible. Obscurity of style, however, is only one of the defects of these Acts. Their arrangement is often worse than their style. …

Accordingly, the Commission’s first recommendation was that the law should be ‘reduced to an intelligible and systematic form. This may be effected by codifying the law, either in the form in which it appears in Sir James Stephen’s Digest, or in any other which may be preferred’.\(^{25}\) The Commission then proceeded systematically to consider the law in the order set out in the Digest and to recommend changes where it saw fit. It adopted the same approach to colonial and international copyright. Thus the Commission’s approach to its task was a holistic one.

In the short term, attempts to implement the Commission’s recommendation that the law be codified were unsuccessful,\(^{26}\) although some of its other recommendations were implemented.\(^{27}\) Although the Berne Convention for the Protection of Literary

\(^{21}\) The minutes have proved an invaluable resource for subsequent scholars.

\(^{22}\) C.2036. Sir Louis Mallet dissented from the whole Report, while a number of other members expressed reservations in relation to parts of the Report.

\(^{23}\) ‘(1) Books; (2) Musical compositions; (3) Dramatic pieces; (4) Lectures; (5) Engravings and other works of the same kind; (6) Paintings, drawings and photographs; and (7) Sculpture’: ibid at para. 3.

\(^{24}\) Stephen’s Digest in itself revealed the uncertainty of the law, since many of the Articles and footnotes contained expressions such as ‘probably’, ‘it seems’ and ‘it is doubtful’.

\(^{25}\) Note 22 above at para. 13.

\(^{26}\) Bills to codify copyright law were introduced in 1878, 1879, 1881, 1890, 1898 and 1910, but not passed. The 1898 Bill led to no fewer than three Reports of the Select Committee of the House of Lords: see Sherman and Bently, note 1 above and Seville, note 18 above, at 239–41. The Australian Copyright Act 1905 was, however, substantially based on the Report and in particular Stephen’s Digest: see Lauriat, note 18 above, at pp. 257–8 and Benedict Atkinson, The True History of Copyright: The Australian Experience 1905–2005 (Sydney University Press, 2007) at 18–20.

\(^{27}\) By a private members’ bill which became the Copyright (Musical Compositions) Act 1888.
and Artistic Works led to the passage of the International Copyright Act 1886 to enable the UK to ratify the Convention, it was only the changes made by the Berlin Act of the Convention in 1908 which prompted further consideration of the need for codification.

In March 1909 the President of the Board of Trade, the Rt Hon Winston Churchill MP, appointed a departmental committee 'to examine the various points in which the revised International Copyright Convention ... is not in accordance with the law of the United Kingdom, including those points which are expressly left to the internal legislation of each country, and to consider in each case whether that law should be altered so as to enable His Majesty’s Government to give effect to the Revised Convention'. The Committee was chaired by Baron Gorell (formerly Sir Gorell Barnes, President of the Probate, Divorce and Admiralty Division of the High Court). The other members were Sir Lawrence Alma-Tadema (the artist), George Askwith (a former barrister and a civil servant at the Board of Trade who had been a member of the British delegation at the Berlin conference), Harley Granville Barker (the actor, director and playwright), William Boosey (the music publisher), Charles Bowerman (a former trade unionist and Labour MP), Henry Claydon (a music publisher and author of a book on Canadian copyright), Henry Cust (a journalist who had been editor of the Pall Mall Gazette and a former Unionist MP), Edward Cutler KC (author of two books on musical copyright and a musician and composer as well as a barrister), Anthony Hope Hawkins (a former barrister and a novelist best known for The Prisoner of Zenda), William Joysson-Hicks MP (a solicitor), Algernon Law (a diplomat), Frederick Macmillan (the publisher), Walter Raleigh (Oxford University’s first Professor of English Literature), Thomas Scrutton QC (author of The Law of Copyright, then in its 4th edition) and Trevor Williams (one of the founders of the Gramophone Company). As with the Royal Commission, the membership of the Committee was broadly representative, and many of the members had had some previous involvement in the subject of copyright.

The Gorell Committee held 16 meetings and took evidence from 45 witnesses over nine days, the minutes of which were published. It reported to Parliament in December 1909. At the outset of its Report, the Committee quoted what the Royal Commission had said about the need to codify the law, and added: ‘... in the opinion of the Committee it is highly desirable that the opportunity, which the amendment of the

28. 1903. In the preface to the 3rd edition (1896), Scrutton had complained: ‘Hardly a copyright case comes into Court, hardly a copyright question comes before counsel for opinion, which does not emphasise the necessity for a thorough revision and codification of the numerous and ill-drafted Acts which constitute the Copyright Law of England. The Copyright Commission urgently recommended this in 1878, but we seem after eighteen years no nearer the desired haven’.


30. Indeed, more so, since it included representatives of the visual arts, drama, journalism and of the fledgling record industry, although not of libraries and museums.

31. For example, Alma-Tadema had previously chaired the St John’s Wood Art Club’s Artistic Copyright Committee from 1896 to 1899. The Committee instructed Scrutton to draft the Copyright (Artistic) Bill, which was introduced into the House of Lords in 1899: see David Foxton, The Life of Thomas E. Scrutton (Cambridge, 2014) at 129–33. This was one of nine Bills on the subject of artistic copyright during the period from 1868 to 1900, none of which were passed.

32. Cmd. 4976 (1909). A number of members of the Committee expressed reservations on certain points.

33. Ibid at 3.
law to give effect to the Convention would afford, should be taken to place the British law on an intelligible and systematic footing’. Having set out an epitome of the existing legislation, the Committee continued:34 ‘This epitome sufficiently indicates the confusion which prevails. It would be a great advantage if the British law were placed on a plain and uniform basis, and that basis were one which is common so far as practicable to the nations which join in the Convention’. The Committee proceeded to examine the Berlin Act article by article and to consider what changes to UK law were needed to comply with it, and concluded by expressing their approval of the Berlin Act as a whole. Again, therefore, the approach taken by the Committee was, within the restrictions imposed by its terms of reference, a holistic one.

The Gorell Committee’s recommendations, and the Royal Commission’s recommendation for codification, were largely implemented in the 1911 Act.35

BETWEEN THE 1911 ACT AND THE COPYRIGHT ACT 1956

Forty-five years passed between the passage of the 1911 Act and the passage of the Copyright Act 1956. That period, of course, included two world wars. The main technological changes which occurred during that period that were relevant to copyright were the introduction of sound films in 1930, television in 1936, new recording media (notably 12-inch 33 1/3 rpm records introduced in 1948 and 7-inch 45 rpm records introduced in 1949) and the first xerographic copier in 1949. Very little amending legislation was passed.36

THE ORIGINS OF THE 1956 ACT

Again, it was a revision to the Berne Convention, this time the Brussels Act of 1948, which prompted consideration of revised domestic legislation. In April 1951 the President of the Board of Trade, the Rt Hon Harold Wilson MP, appointed a departmental committee ‘to consider and report whether any, and, if so, what changes are desirable in the law relating to copyright in literary, dramatic, musical and artistic works with particular regard to technical developments and to the revised International Convention … and to consider and report on related matters’. The original chairman, the Marquess of Reading, resigned in October 1951 on his appointment as Under Secretary of State for Foreign Affairs. After that, the Committee was chaired by Sir Henry Gregory (a career civil servant who at the time was Second Secretary in the Board of Trade). The other members of the Committee were Thomas Allibone FRS (an eminent physicist), John Blake (the then Comptroller-General of Patents, Designs and Trade Marks),37 George Cooke (a solicitor), Anne Godwin (a trade unionist), Edward Hugh-Jones (an economist), JP Lamb (a librarian)

34. Ibid at 7–8.
35. The legislative history of the 1911 Act is described by Bently, note 29 above, at 32–4. The codification achieved by the 1911 Act was not complete, since the Musical (Summary Proceedings) Copyright Act 1902, the Musical Copyright Act 1906 and one section of the Fine Arts Copyright Act 1862 remained in force.
36. Minor amendments were made by the Copyright (British Museum) Act 1915 (repealed by the British Museum Act 1932), the National Library of Scotland Act 1925, the Law Reform (Married Women and Tortfeasors) Act 1935 and the Customs and Excise Act 1952.
37. He was knighted in 1952.
and Francis Skone James (a barrister and editor of *Copinger on Copyright*, then in its 8th edition). Although loosely representative of a range of interests, it was less representative of the creators and exploiters of copyright works than either the Royal Commission or the Gorell Committee.

The Committee held 57 meetings. It took evidence in public from witnesses from 29 organizations and five individuals, transcripts of which were published. It also received written representations from 34 organizations and nine individuals. It presented its report to Parliament in October 1952. In its preliminary remarks, the Committee observed:

The Committee appointed in 1909 found the Law of Copyright in what they described as ‘a state of confusion’, and they recommended that action should be taken ‘to place the British law on an intelligible and systematic footing’. This was accomplished in no small measure by the Copyright Act of 1911, but in the forty-two years since the passing of that Act, during which time there have been two further International Conventions of the Berne Union as well as spectacular developments in the technical field, it was inevitable that some parts, at least, of the codification accomplished in 1911 should have become somewhat outdated. We share the views expressed by our predecessors that ‘it would be a great advantage if the British law were placed on a plain and uniform basis, and that basis were one which is common so far as practicable to the nations which join in the Convention’.

Although somewhat oddly structured, the report considered the whole subject and made 67 recommendations, the first of which was that the Government should accede to the Brussels Act of the Berne Convention. Again, therefore, the Committee’s approach was a holistic one.

The Gregory Committee’s recommendations were largely enacted in the 1956 Act.

**BETWEEN THE 1956 ACT AND THE 1988 ACT**

Thirty-two years passed between the passage of the 1956 Act and the passage of the Copyright, Designs and Patents Act 1988. The main technological changes which occurred during that period that were relevant to copyright were the introduction of improved photocopiers, further new recording media (particularly cassettes and compact discs), new broadcast media (cable and satellite television) and the advent of computers, particular the personal computer. The world was starting to go digital, but as yet in a relatively small way. Very little amending legislation was passed in the 1960s and 1970s apart from the Designs Copyright Act 1968, but in the mid-1980s the Copyright Act 1956 (Amendment) Act 1982, the Copyright (Amendment) Act 1983, the Cable and Broadcasting Act 1984 and the Copyright (Computer Software) Amendment Act 1985 were passed in quick succession as stop-gap measures pending the passage of the 1988 Act.

38. 1948.
39. See Bently, note 29 above, at 34–5.
40. Cmd. 8662.
41. Ibid at 1–2.
42. The legislative history of the 1956 Act is described by Bently, note 29 above, at 36–8.
43. Minor amendments were made by the Copyright (Amendment) Act 1971 and a small number of other statutes.
THE ORIGINS OF THE 1988 ACT

The origins of the 1988 Act lie in the appointment by the Secretary of State for Trade and Industry, the Rt Hon Peter Walker MP, in August 1973 of a departmental committee to consider and report whether any, and if so what, changes were desirable in the law relating to copyright as provided in particular by the Copyright Act 1956 and the Design Copyright Act 1968, including the desirability of retaining the system of protection of industrial designs by the Registered Designs Act 1949.44

The Committee was chaired by Mr Justice Whitford, an intellectual property specialist. The other members of the Committee were WH Barber (an academic in the field of French literature), George Burton (Chief Executive of Fisons and a representative of the Confederation of British Industry), George Doughty (a trade unionist), Rosina Harris (a solicitor),45 Edmund Skone James (son of Francis Skone James, barrister and editor of Copinger, then in its 11th edition), Jaqueline Thwaites (founder of the Inchbald School of Design),46 William Wallace (who had just retired as Assistant Comptroller in the Patent Office) and Walter Weston (a patent agent). The composition of the Whitford Committee was thus similar to that of the Gregory Committee. Although it was not expressly referred to in its terms of reference, and although those terms make it plain that there were other factors involved, the appointment of the Whitford Committee was once again prompted at least partly by revisions to the Berne Convention, this time the revisions agreed at Stockholm in 1967 and Paris in 1971. The Committee also had to consider the impact of the Universal Copyright Convention of 1971 and the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations of 1961.

The Committee held 106 meetings, and smaller working groups also met occasionally to discuss particular topics. It took oral evidence from 56 organizations and companies and 11 individuals. It also received written evidence from a considerable number of organizations, companies and individuals. Unlike its predecessors, the Committee did not publish any of this evidence.47

The Committee presented its report to Parliament in March 1977.48 The report was unusually comprehensive, since the Committee’s terms of reference required it to consider the law of designs as well as that of copyright. It systematically surveyed the entire topic in 19 chapters and summarized its recommendations in a twentieth.49 Again, therefore, the Committee’s approach was a holistic one.

44. There was a specific exclusion from the Committee’s terms of reference of any consideration of the merits of lending to the public as one of the acts restricted by copyright in a work.
45. And a partner in Joynson-Hicks, the firm founded by William Joynson-Hicks (which later became part of Taylor Joynson Garrett, now Taylor Wessing).
46. Now Jaqueline Duncan.
47. It might make an interesting PhD project to analyse the submissions and notes of evidence, assuming they are still extant and could be obtained, and to compare them with the Committee’s report.
48. Cmnd 6732.
In its introduction, the Committee stated:\textsuperscript{50}

The Act of 1956 is a remarkable feat of draftsmanship but, even if it is a draftsman’s dream, it has proved a nightmare to those who have to try to understand it whether as laymen for their own purposes or as lawyers seeking to guide their clients. It is for this reason no doubt that one of the most constant themes in the submissions received by the Committee has been the request that something must be done to simplify the law. A principal objective in any future legislation must be that copyright law should be ‘placed on a plain and uniform basis’ to adopt the words of the 1952 (Gregory) Committee echoing the words of the 1909 Committee.

To this end, the Whitford Committee devoted its first chapter, and its first three recommendations, to the manner in which such future legislation should be framed.\textsuperscript{51}

In 1981 the Government published a Green Paper on Reform of the Law relating to Copyright, Designs and Performers’ Protection.\textsuperscript{52} In 1983 the Government published another Green Paper on Intellectual Property Rights and Innovation.\textsuperscript{53} In 1986 the Government published a White Paper on Intellectual Property Rights and Innovation.\textsuperscript{54} As a result of these deliberations, the Copyright, Designs and Patents Act 1988 differed in certain respects from what had been proposed by the Whitford Committee,\textsuperscript{55} but nevertheless the basic foundations were those laid down by the Committee. In particular, in accordance with the Committee’s recommendations, the 1988 Act was much more clearly drafted than its predecessor.

**RECENT DOMESTIC REFORMS TO UK COPYRIGHT LAW**

Since the 1988 Act was passed, there has been no consideration of UK copyright law of the kind undertaken by the Royal Commission and the Gorell, Gregory and Whitford Committees. Instead, over the last nine years there have been a number of partial reviews of copyright law which have resulted in a series of piecemeal amendments to the 1988 Act.\textsuperscript{56}

\textsuperscript{50} Note 48 above at para 16.

\textsuperscript{51} The drafting of the 1956 Act was also criticized by Sir William Dale in a book published in the same year as the Whitford Committee’s report, Legislative Drafting: A New Approach (Butterworths, 1977). Francis Bennion, one of the draftsmen of the 1956 Act, responded in a review: [1980] Stat LR 61.

\textsuperscript{52} Cmnd 8302.

\textsuperscript{53} Cmnd 9445.

\textsuperscript{54} Cmnd 9712.

\textsuperscript{55} Notably in relation to the protection of designs. The Whitford Committee’s recommendations that the Registered Designs Act 1949 should be repealed and a two-tier system of copyright protection for designs should be introduced were rejected. Instead, Part III of the 1988 Act was largely modelled on the proposals of the Johnston Committee on Industrial Designs in its report presented to Parliament in August 1962, Cmnd 1808.

\textsuperscript{56} There have also been a number of reports by governmental or legislative bodies which have not resulted in recommendations for specific amendments to the 1988 Act, including: New Media and the Creative Industries (Culture, Media and Sport Select Committee Report, 2007), Digital Britain: Final Report (Department for Business Innovation and Skills and Department of Culture Media and Sport, Cm 7650, June 2009) and © The Way Ahead: A Strategy in the Digital Age (IPO and BIS, October 2009). These reviews have taken place alongside the ongoing processes of implementing European Directives in the field of copyright and related rights (as to which, see the discussion below) and of making other, minor amendments to the 1988 Act consequential upon other legislative developments.
First, there was the Gowers Review of Intellectual Property, which was announced by the Chancellor of the Exchequer, the Rt Hon Gordon Brown MP, in his Pre-Budget Report to the House of Commons on 5 December 2005. Andrew Gowers, a former editor of the *Financial Times*, was appointed by the Chancellor and the Secretaries of State for Trade and Industry and Culture, Media and Sport to consider

– the way in which Government administers the awarding of IP rights and its support to consumers and business;

– how well businesses are able to negotiate the complexity and expense of the copyright and patent system, including copyright and licensing arrangements, litigation and enforcement; and

– whether the current technological and legal IP infringement framework reflects the digital environment, and whether provisions for ‘fair use’ by citizens are reasonable.\(^{57}\)

He was supported by a small team of civil servants, but otherwise he worked alone. He was asked to report within a year. On 23 February 2006 he issued a Call for Evidence asking respondents to comment on a range of general and specific issues by 21 April 2006. He received 517 responses from organizations, companies and individuals, most of which were published. He did not take any oral evidence.

In his report, which was published in December 2006, Gowers reviewed the entire UK intellectual property system from a number of perspectives and made 57\(^{58}\) recommendations.\(^{59}\) The recommendations were concentrated on three areas: strengthening enforcement of IP rights, reducing the costs of registering and litigating IP rights and improving the balance and flexibility of IP rights to allow content to be used in ways consistent with the digital age.\(^{60}\) Ten of his recommendations were for specific amendments to the 1988 Act (including, where necessary, amendments to the EU Information Society Directive).\(^{61}\) Gowers did not attempt to consider how his proposed incremental reforms

\(57\) The terms of reference as set out in paragraph E.5 of the Executive Summary to the published Review (December 2006). The background to the setting up of the Gowers Review is described in Hector MacQueen, ‘Copyright Law Reform: Some Achievable Goals?’, in Fiona Macmillan (ed), *New Directions in Copyright Law* volume 4 (Edward Elgar, 2007).

\(58\) Although the recommendations are numbered from 1 to 54, three are divided into a and b.


\(60\) Foreword, p. 1. One measure of Gowers’ approach is the fact that he made no specific recommendations at all in respect of designs, although some of his general recommendations, such as those with respect to enforcement, embrace designs.

\(61\) Recommendation 2: Enable educational provisions to cover distance learning and interactive whiteboards by 2008 by amending sections 35 and 36 of the CDPA. Recommendation 8: Introduce a limited private copying exception by 2008 for format shifting for works published
would affect other parts of the copyright system, still less did he consider the system as a whole. Nevertheless, many of Gowers’ recommendations have now been implemented in whole or in part, albeit that they were not effected within the timescale he suggested, and only after extensive further consultations.62

Secondly, in 2008 there was an Intellectual Property Office consultation on amendments to the public performance exceptions in the 1988 Act which were not among Gowers’ recommendations.63

Thirdly, there was the Hargreaves Review of Intellectual Property and Growth. Professor Ian Hargreaves, another former editor of the Financial Times who is Professor of Digital Economy at Cardiff University, was appointed by the Prime Minister, the Rt Hon David Cameron MP, in November 2010 to ‘develop proposals on how the UK’s intellectual property framework can further promote entrepreneurship, economic growth and social and commercial innovation’.64 Hargreaves was assisted by an advisory panel consisting of Professor James Boyle (co-founder of the Center for the Study of the Public Domain at Duke Law School and co-founder of Creative Commons), Dr Roger Burt (former Senior IP Counsel at IBM), Professor David Gann (Professor of Innovation and Technology Management at Imperial College), Tom Loosemoore (Head of Strategy at the Government Digital Service) and Professor Mark Schankermann (Professor of Economics at the London School of Economics). He was asked to report within six months. On December 2010 he issued a Call for Evidence asking for comments on a range of questions and issues by 1 March 2011. Nearly 300 responses were received. In addition, he had meetings after the date that the law comes into effect. There should be no accompanying levies for consumers.

Recommendation 9: Allow private copying for research to cover all forms of content. This relates to the copying, not the distribution of media. Recommendation 10a: Amend s 42 of the CDPA by 2008 to permit libraries to copy the master copy of all classes of work in permanent collections for archival purposes and to allow further copies to be made from the archived copy to mitigate against subsequent wear and tear. Recommendation 10b: Enable libraries to format shift archival copies by 2008 to ensure records do not become obsolete. Recommendation 11: Propose that Directive 2001/29/EC be amended to allow for an exception for creative, transformative or derivative works, within the parameters of the Berne Three Step Test. Recommendation 12: Create an exception to copyright for the purpose of caricature, parody or pastiche by 2008. Recommendation 13: Propose a provision for orphan works to the European Commission, amending Directive 2001/29/EC. Recommendation 36: Match penalties for online and physical infringement by amendment section 107 of the CDPA by 2008. Recommendation 42: Give Trading Standards the power to enforce copyright infringement by enacting section 107A of the CDPA by 2007. In addition, Gowers recommended that the term of protection for sound recordings and performers’ rights should not be increased by the EU: recommendation 3.

62. See in particular: Taking Forward the Gowers Review of Intellectual Property: Proposed Changes to Copyright Exceptions (UKIPO Consultation Paper, November 2007) (recommendations 2, 8, 9, 10a, 10b, 12); Taking Forward the Gowers Review of Intellectual Property: Penalties for Copyright Infringement (UKIPO Consultation Paper, August 2008) (recommendation 36); Taking Forward the Gowers Review of Intellectual Property: Second Stage Consultation on Copyright Exceptions (IPO Consultation Paper, December 2009) (recommendations 2, 8, 9, 10a, 10b, 12); and the consultations which followed the Hargreaves Review.

63. Consultation on Changes to Exemptions from Public Performance Rights in Sound Recordings and Performers’ Rights (UKIPO Consultation Paper, June 2008). This followed an earlier consultation in 2002. The amendments were implemented by the Copyright, Designs and Patents Act 1988 (Amendment) Regulations 2010, SI 2010/2694.

64. The full terms of reference are set out in Annex A to the final report.
with a considerable number of stakeholders and attended a number of seminars, round tables, workshops and other events.

In his report entitled *Digital Opportunity*, which was published in May 2011, Hargreaves reviewed the aspects of the UK intellectual property system which appeared to him to be relevant to the promotion of economic growth and made ten main recommendations. Two of these recommendations concerned amendments to the 1988 Act. In essence, Hargreaves recommended the adoption of a number of the amendments which had been recommended by Gowers, but had not yet been implemented. After further consultations, these recommendations have now been substantially implemented. Hargreaves did not attempt to consider how his proposed reforms would affect other parts of the copyright system, still less did he consider the system as a whole.

On the other hand, Hargreaves did say this:

In their response to the Call for Evidence the Patent Judges in England and Wales said that a comprehensive review and redrafting of the Copyright Act is now considerably overdue. The Review agrees. Implementation of the strategic assessment of the IP framework provided by the Review would be incomplete without consideration of the statutory underpinning, which needs to be both tailored to modern circumstances and as clear as possible. The Review recognises the pressures on Parliamentary time, and the Government’s commitment in

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65. Unlike Gowers, Hargreaves did address designs, recommending that this area be reviewed by the IPO (recommendation 7). This led to the reforms implemented by sections 1 to 14 of the Intellectual Property Act 2014.


67. Recommendations 4 (orphan works) and 5 (limits to copyright).

68. Namely the recommendations with regard to format shifting, parody, non-commercial research and library archiving. In addition, Hargreaves went further in recommending an exception for text mining and domestic legislation with regard to orphan works. He also expressed support for extended collective licensing and recommended that collecting licensing bodies be required to adopt codes of practice.

69. See in particular: *Consultation on Copyright* (IPO Consultation Paper, December 2011); *Regulation of Licensing Bodies* (IPO Consultation Paper, September 2013); *Extending the Benefits of Collective Licensing* (IPO Consultation Paper, November 2013); *Copyright Works: Seeking the Lost* (IPO Consultation Paper, January 2014). I have not included purely technical reviews of the draft legislation.

70. In some respects, the amendments which have been implemented go further than the specific recommendations of Gowers and Hargreaves: see in particular the new exception for quotation introduced into section 30 of the 1988 Act by regulation 3 of the Copyright and Rights and Performances (Quotation and Parody) Regulations 2014, SI 2014/2356. In addition, the exceptions for disabled persons were broadened by the Copyright and Rights in Performances (Disability) Regulations 2014, SI 2014/1384.

March to avoid further IP reviews in this Parliament. We urge Ministers not to allow these constraints to prevent the Government from bringing the Copyright Act up to date.

In addition to the three exercises I have just described, the Enterprise and Regulatory Reform Act 2013 introduced certain amendments to the 1988 Act which had not been the subject of any prior consultation or review. In particular, section 74 of the 2013 Act repealed section 52 of the 1988 Act in reaction to the decision of the Court of Justice of the European Union in the *Flos case*, although the date when the repeal is to become effective has yet to be decided and is presently the subject of a consultation. So too did the Intellectual Property Act 2014.

Before leaving this topic, it should be noted that the Law Commission has never been asked to look at copyright law. Indeed, when the Law Commission was recently asked by the Department of Business, Innovation and Skills and the IPO to review the law on groundless threats of intellectual property litigation, groundless threats of copyright litigation were excluded from its remit.

**SEVEN REASONS WHY WE NEED A NEW ACT**

There are at least seven reasons why we now need a new Copyright Act. The first is the passage of time. As I mentioned at the beginning of this lecture, it is 26 years since...
the 1988 Act was passed. It is 37 years since the Whitford Committee’s report. During that period, technological change relevant to copyright has accelerated and has become more transformative. We have had the advent of the world wide web, the whole online world including Internet television and social media, smart phones, tablet computers, and now 3D printing. Furthermore, these technological changes have led to massive changes to the business models for exploiting copyright works. Although much amended, the 1988 Act remains rooted in the analogue world.

The second reason is the changed international and European context. As I have related, past UK copyright legislation has often been prompted by international developments. The 1988 Act was passed prior to TRIPS, the WIPO Treaties, the Beijing Treaty and the Marrakesh Treaty and prior to any European Directives in field of copyright and related rights. It was a purely domestic statute, albeit one which was intended to comply with the UK’s obligations under the Berne Convention. Since then, the context has changed radically. We now have TRIPS, the WIPO Treaties, the Beijing Treaty and the Marrakesh Treaty. More importantly, perhaps, there are now no less than 10 European Directives which directly regulate copyright and related rights, and a number of other Directives which also affect such rights. As is well


80. The WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, both concluded in December 1996.

81. The Beijing Treaty on Audiovisual Performances, concluded on 24 June 2012.

82. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, concluded on 27 June 2013.


84. In particular: European Parliament and Council Directive 98/84/EC of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access; European
established, the domestic legislation must be construed, so far as possible, in accordance with the Directives. There is now a steady stream of decisions from the Court of Justice of the European Union interpreting the Directives. As a result, it no longer makes sense to have a statute which is not rooted in the European legislation.

The third reason is that the 1988 Act has been amended a quite extraordinary number of times. By my count, there have been no less than 80 amending Acts and statutory instruments to date. Some of these amendments have been required to implement the European Directives. Others have been the result of purely domestic initiatives, such as those I have described. Amendments have repeatedly been made to earlier amendments. To call the result a patchwork quilt would be an insult to the art of quilting. A closer analogy would be an obsessively re-used palimpsest.

The fourth reason is that some of the European Directives have been wrongly implemented due to a failure properly to understand the concepts they employ. One example of this is the UK legislators’ failure to understand that what the 1988 Act calls a ‘film’ is what the Directives call a ‘first fixation’ of a film. As a consequence, section 13B of the 1988 Act gives the film copyright the duration which should be given to the cinematographic or audiovisual work. More generally, our legislators do not seem to understand the distinction between authors’ rights and related rights which is fundamental to the European legislation.

The fifth reason is that there are systemic problems in the design of the 1988 Act whose effects have become worse over time. One example of this is the treatment of protectable subject matter in the 1988 Act. Problems such as the treatment of photographs and unconventional artistic works have become more acute with changes in technology and culture, and the tension between the domestic and European


87. See the list in the Appendix. This does not include the Copyright and Rights in Performances (Certain Permitted Uses of Orphan Works) Regulations 2014, SI 2014/2861, which were awaiting Parliamentary approval on 13 October 2014.


approaches is growing.90 As Dr Eleonora Rosati has pointed out, part of the difficulty lies in the 1988 Act’s closed list of subject matter.91

The sixth reason is that the interface between copyright law and designs law needs reconsidering. As I have mentioned, section 52 of the 1988 Act has been prospectively repealed. But section 52 was just part of a sophisticated scheme to balance copyright and design protection put in place by the 1988 Act, which also included section 51 and Part III of the 1988 Act and amendments to the Registered Designs Act 1949. As Professor Lionel Bently has argued, it does not make sense simply to unpick one element of that scheme.92

The seventh reason follows from the previous six, namely that the Act as it presently stands is considerably longer than the Act as originally enacted, considerably more complicated, cannot be understood in isolation from the EU Directives and the implementing regulations93 and lacks coherence.94 As a result, the law is inaccessible to creators, exploiters and users of copyright works, which is to say, everyone in the UK. In other words, our legislation is now in a similar state to that which faced the Royal Commission and the Gorell, Gregory and Whitford Committees. Initiatives such as the Copyright Notice service launched by the IPO last year to attempt to clarify the law95 amount to tackling the symptoms, not the disease.

FIVE POSSIBLE WAYS FORWARD

What then should be done? For the reasons I have explained, it is plain that we need a new Copyright Act. Nevertheless, there are a number of different approaches to drawing up a new Act that could be adopted. I would offer five possible ways forward.96

The first and simplest possibility would be pure consolidation of the existing Act and all its amendments, including in particular the provisions implementing EU Directives that are not presently included in the Act and the various transitional provisions, which are currently scattered amongst a considerable number of different statutory instruments. This exercise could include some simple drafting amendments, such as bringing performers’ rights into Part I of the new Act, which would enable Part II and Schedules 2 and 2A of the 1988 Act to be dispensed with. That one measure on its own would considerably shorten and simplify the Act.97

91. Eleonora Rosati, Originality in EU Copyright (Edward Elgar, 2013), Ch. 5. See also Christie, note 78 above.
93. Note that the provisions concerning artists’ resale right, database right and publication right are not even to be found in the 1988 Act, despite its length. Nor are the many transitional provisions relating to the successive amendments to implement EU Directives.
94. Dr Jeremy Philips said in a blogpost on the IPKat blog on 23 September 2014 that ‘The copyright legislation in the United Kingdom is, so far as this Kat is aware, the longest, the most confusing and the hardest to navigate in the world. If they were giving medals for Legislative Nasties, the Copyright, Designs and Patents Act 1988, together with its attendant amendments and subordinate legislation, would surely win Gold, Silver and Bronze’.
95. Essentially as recommended by Hargreaves (recommendation 10).
The second possibility would be what I would label ‘consolidation plus’, that is to say, consolidation augmented by more extensive redrafting for clarity, consistency and proper compliance with the Directives, but without making significant substantive changes.

The third possibility would be to recast the Act on the basis of the European *acquis*. That would involve taking the *ipsissima verba* of the European Directives as providing the basic skeleton for the new Act, and then filling in the gaps, but without making significant substantive changes to the existing law. The point of this exercise would be three-fold. First, it would ground the domestic legislation more securely in the European legislation. Secondly, it would reduce, if not eliminate, the need for users to consult the Directives and implementing regulations in order to interpret the Act. Thirdly, it would mean that the domestic legislation would be better placed to accommodate the next round of European harmonization. As a variant of this third possibility, the Wittem Group’s European Copyright Code could be taken as the starting point, except where the Code deviates from the Directives.

The fourth possibility would be what I would label ‘minimal substantive review’. This would not involve going over the ground covered by the recent reviews and consultations again, but rather would be aimed at completing the process of reform. Thus it would be essentially aimed at assessing what consequential changes are needed as a result of the recent amendments and generally overhauling the remainder of the Act.

The fifth and final possibility would be what I would label ‘maximal substantive review’. This would involve a holistic review of copyright law of the kind undertaken by the Whitford Committee.

HOW SHOULD WE CARRY OUT COPYRIGHT LAW REFORM?

Particularly if the fourth or fifth possibilities are adopted, it remains to be considered how copyright law reform should be undertaken in this country. We could, of course, look to other countries for inspiration. A number of other countries are presently engaged in copyright law reform projects, including Australia and the USA.

98. This is not to pretend that this is an entirely straightforward exercise. Some of the provisions in the Directives cannot be implemented as they stand, since they require choices to be made or detail to be supplied. Furthermore, there is a degree of inconsistency between the Directives at least in the language they use.

99. The past tendency of Parliamentary draftsmen to re-write even mandatory provisions of European Directives which do not require choices to be made with regard to implementation has been much criticized and has led to the courts looking directly to the European legislation instead: see eg *British Sugar plc v James Robertson & Sons Ltd* [1996] RPC 281 at 291 (Jacob J), *Philips Electronics NV v Remington Consumer Products* [1998] RPC 283 at 290 (Jacob J) and many subsequent dicta. Happily, the current practice is usually to follow the European text as closely as possible. For discussion of this issue from the draftsman’s perspective see Daniel Greenberg, ‘The Copy-Out Debate in the Implementation of European Union Law in the United Kingdom’ (2012) 6 Legisprudence 243.

100. Unless that takes the form of a unitary European copyright title as proposed by eg Hargreaves and Hugenholtz, note 77 above.

101. Available at <www.copyrightcode.eu>.

102. See the Australian Law Reform Commission’s report *Copyright and the Digital Economy* (13 February 2014).

No doubt there are useful lessons which could be learned. One could also look to the European Commission, which has recently consulted on a wide-ranging review of EU copyright rules.\textsuperscript{104} But, as I have attempted to describe in this lecture, we have a long and rich history in our own country to learn from.

The system of appointing a Royal Commission or departmental committee once a generation, with instructions holistically to consider copyright law and make recommendations for its improvement, was not a perfect one. It could be improved in at least three ways. The first is by ensuring that all the members of such a committee are appropriately qualified. In particular, the membership should not include people with no experience of copyright law or the copyright industries and should include a legal academic. Secondly, the committee should require a higher standard of evidence than was accepted in the past.\textsuperscript{105} A laudable innovation of the Gowers Review was the commissioning of an economic analysis (of copyright term extension) from the Centre for Intellectual Property and Information Law at Cambridge University. Another useful technique, which has been partially adopted by the European Commission, is a structured survey seeking empirical evidence of the kind which is popular in social science research. Thirdly, the committee should conduct its proceedings with more transparency than the Whitford Committee did.

Nevertheless, I would suggest that the departmental committee model of law reform served us fairly well. In particular, it had the advantage of providing a forum for the often contentious debates that copyright law engenders and of providing a mechanism for trying to resolve such debates.\textsuperscript{106} The only superior model is that provided by the Law Commission, but I doubt that the Law Commission would want to undertake a review of copyright law given its modest resources and other commitments. I would suggest that neither the Gowers Review nor the Hargreaves Review provides a better model for achieving satisfactory reform of copyright law. While they have delivered some worthwhile incremental reforms, the process has taken nine years and yet has not addressed any of the seven problems I have identified. On the contrary, it has exacerbated them. If the Government had appointed a departmental committee in December 2005, we could have had a new Copyright Act on the statute book by now.

CONCLUSION

In conclusion, I suggest that it is time for a new Copyright Act and that a departmental committee should be appointed to make recommendations for the framing of the new Act.

\textsuperscript{104} For a commentary, see Martin Kretschmer, Ronan Deazley, Lillian Edwards, Kristofer Erickson, Burkhard Schafer and Daniel John Zizzo, ‘The European Commission’s Public Consultation on the Review of EU Copyright Rules: A Response by the CREATe Centre’ [2014] EIPR 547–53.

\textsuperscript{105} On the other hand, it should be recognized that the procedures adopted by the Royal Commission and by the Gorell, Gregory and Whitford Committees did have the advantage of enabling them to test the evidence of witnesses through oral questioning.

\textsuperscript{106} It is a mistake to think that this is a new phenomenon. The proceedings and reports of the Royal Commission and the Gorell, Gregory and Whitford Committees reveal sharp and passionate dissension on many points. In the case of the Royal Commission, this extended to dissension over the very purpose and rationale of copyright itself: see note 18 above.
APPENDIX: LIST OF LEGISLATION WHICH HAS AMENDED THE COPYRIGHT, DESIGNS AND PATENTS ACT 1988 (AS AT 13 OCTOBER 2014)

1. The Broadcasting Act 1990
2. The Courts and Legal Services Act 1990
3. The National Health Service and Community Care Act 1990
5. The High Court and County Courts Jurisdiction Order 1991, SI 1991/724
7. The Charities Act 1993
8. The Judicial Pensions and Retirement Act 1993
11. The Trade Marks Act 1994
15. The Duration of Copyright and Rights in Performances Regulations 1995, SI 1995/3297
17. The Olympic Symbol etc. (Protection) Act 1995
20. The Education Act 1996
22. The National Health Service (Primary Care) Act 1997
23. The Copyright and Rights in Databases Regulations 1997, SI 1997/3032
27. The Northern Ireland Act 1998
28. The Scotland Act 1998
30. The Transfer of Functions (Lord Advocate and Secretary of State) Order 1999, SI 1999/678
33. The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000, SI 2000/90
37. The Health and Social Care Act 2001
38. The Registered Design Regulations 2001, SI 2001/3949
39. The Enterprise Act 2002
40. The Copyright etc. and Trade Marks (Offences and Enforcement) Act 2002  
41. The Copyright (Visually Impaired Persons) Act 2002  
42. The Communication Act 2003  
43. The Health and Social Care (Community Health and Standards) Act 2003  
44. The Copyright and Related Rights Regulations 2003, SI 2003/2498  
45. The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004, SI 2004/957  
47. The Serious Organised Crime and Police Act 2005  
48. The Commissioners for Revenue and Customs Act 2005  
49. The Constitutional Reform Act 2005  
52. The Performances (Moral Rights, etc.) Regulations 2006, SI 2006/18  
53. The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No 2) Order 2006, SI 2006/1016  
54. The Intellectual Property (Enforcement, etc.) Regulations 2006, SI 2006/1028  
56. The Legal Services Act 2007  
57. The Tribunals, Courts and Enforcement Act 2007  
58. The Health and Social Care Act 2008  
63. The Digital Economy Act 2010  
64. The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010, SI 2010/1158  
67. The Charities Act 2011  
68. The Health and Social Care Act 2012  
69. The Crime and Courts Act 2013  
70. The Enterprise and Regulatory Reform Act 2013  
71. The Copyright and Duration of Rights in Performances Regulations 2013, SI 2013/1782  
72. The Copyright and Duration of Rights in Performances (Amendment) Regulations 2014, SI 2014/434  
73. The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014, SI 2014/1372  
74. The Copyright and Rights in Performances (Disability) Regulations 2014, SI 2014/1384  
75. The Copyright (Public Administration) Regulations 2014, SI 2014/1385
76. The Intellectual Property Act 2014
77. The Copyright and Rights in Performances (Quotation and Parody) Regulations 2014, SI 2014/2356
78. The Copyright and Rights in Performances (Personal Copies for Private Use) Regulations 2014, SI 2014/2361
79. Care Act 2014 (Schedule 5, Part 4, paragraph 33, not yet in force)
80. Intellectual Property Act 2014 (section 22, not yet in force)