

# The letter of the law.

DVD piracy is a crime. This booklet provides a summary of the 1988 Copyright, Designs and Patents Act in relation to DVD and film piracy.

It sets out the penalties that apply to anyone found guilty of distributing pirate DVDs or aiding and abetting copyright theft and provides guidance on how the law applies in practice.



	<p><b>DVD Piracy is a crime.</b> <b>Don't support it. Report it.</b> <b>0845 6034567</b> Visit <a href="http://www.piracyisacrime.com">www.piracyisacrime.com</a> for more information.</p>
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# COPYRIGHT THEFT.

## A summary of the law relating to copyright theft.

This booklet provides a summary by intellectual property lawyer, Mike Northern, of the law relating to copyright theft. The opposite page details the criminal provisions regarding copyright law taken from the Copyright, Designs and Patents Act 1988.

### Offences

A person commits an offence who carries out the following without the permission of the copyright owner:

- making unauthorised copies e.g. burning films onto DVD-Rs;
- distributing, selling or hiring out unauthorised copies of DVDs;
- on a larger scale, distributing unauthorised copies as a commercial enterprise, e.g. uploading films and making them widely available on the internet, using a company's computer system;
- whilst not dealing commercially, distributing unauthorised copies on such a scale as to have an impact on the copyright owner's business;
- possessing unauthorised copies with a view to distributing, selling or hiring these to other people.

NB: It must be demonstrated that an individual handling unauthorised copies knew, or had reason to believe, that they are illegal copies, before an offence has been committed.

### Penalties for making or handling unauthorised copies

The penalties for copyright theft offences vary depending on the seriousness of the offences:

- in a magistrates' Court, the penalties for selling pirate DVDs are a maximum fine of £5,000 and/or six months imprisonment;
- in the Crown Court, the penalties for distributing pirate DVDs are an unlimited fine and/or up to 10 years imprisonment.

### Illegal public screenings

The showing of a film in public, such as in a pub or workplace, of an unauthorised copy of a film, including a DVD, is an offence, if the person showing the film knew or had reason to believe that copyright would be infringed. In the magistrates' Court, the penalty for this offence is a maximum fine of £5,000 and/or 6 months imprisonment.

### Aiding and abetting

Persons, including employers, and pub landlords who actively assist or encourage copyright piracy on their premises may be guilty of aiding and abetting the copyright offences taking place on their premises. As such they face the same penalties as those relating to the making or handling of unauthorised copies.

### Downloading and file sharing

Downloading may be unlawful and in some instances it will be an offence if the intention is to use the downloaded copyright material e.g. film or music for unlawful purposes such as distributing copies to others.

Sharing of copyright material without permission may be unlawful because the author of the material (writer, film distributor etc) has not given permission for the material to be distributed. Distributing unauthorised material e.g. films via file sharing may be an offence. However, licensed peer-to-peer/file sharing software is legal. Many companies use it internally for file sharing.

### Extracts from the Copyright, Designs and Patents Act 1988 with particular reference to DVD and film piracy

#### Infringing copies

The statutory definition of an "infringing copy" of a copyright work is contained in Section 27(2). This provides that "an article is an infringing copy if its making constituted an infringement of the copyright in the work in question".

#### Offences and Penalties

##### 107 Criminal liability for making or dealing with infringing articles,

- (1) A person commits an offence who, without the licence of the copyright owner:
  - (a) makes for sale or hire, or
  - (c) possesses in the course of a business with a view to committing any act infringing the copyright, or
  - (d) in the course of a business:
    - (i) sells or lets for hire, or
    - (iv) distributes, or
  - (e) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright, an article which is, and which he knows or has reason to believe is, an infringing copy of a copyright work.
- (2A) A person who infringes copyright in a work by communicating the work to the public:
  - (a) in the course of a business, or
  - (b) otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright, commits an offence if he knows or has reason to believe that, by doing so, he is infringing copyright in that work.
- (3) Where copyright is infringed (otherwise than by reception of a communication to the public):
  - (b) by the playing or showing in public of a sound recording or film, any person who caused the work to be so performed, played or shown is guilty of an offence if he knew or had reason to believe that copyright would be infringed.

- (4) A person guilty of an offence under subsection (1)(a), (b), (d)(iv) or (e) is liable:
  - (a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding ten years, or both;
- (4A) A person guilty of an offence under subsection (2A) is liable:
  - (a) on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or both.
- (5) A person guilty of any other offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both.

##### 110 Offence by body corporate: liability of officers

- (1) Where an offence under section 107 committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) In relation to a body corporate whose affairs are managed by its members "director" means a member of the body corporate.

*Disclaimer – this document is intended as a guide to copyright theft, please ensure that you seek legal advice in relation to any specific copyright issues. For a full copy of the Act, please apply to HMSO: [www.hmso.gov.uk](http://www.hmso.gov.uk). For other information visit: [www.patent.gov.uk](http://www.patent.gov.uk)*



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