



**Isle of Man**

*Ellan Vannin*

**AT 19 of 1995**

# **VIDEO RECORDINGS ACT 1995**





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## VIDEO RECORDINGS ACT 1995

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**Isle of Man***Ellan Vannin*

## VIDEO RECORDINGS ACT 1995

*Received Royal Assent:* 12 December 1995  
*Passed:* 16 January 1996  
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**AN ACT** to make provision for regulating the distribution of video recordings and for the registration of video recording suppliers; and for connected purposes.

### PART 1 – CLASSIFICATION OF VIDEO RECORDINGS

#### **1 Supplying video recording of unclassified work**

- (1) A person who supplies or offers to supply a video recording containing a video work in respect of which no classification certificate has been issued is guilty of an offence unless —
  - (a) the supply is, or would if it took place be, an exempted supply; or
  - (b) the video work is an exempted work.
- (2) It is a defence to a charge of committing an offence under this section to prove that the accused believed on reasonable grounds —
  - (a) that the video work concerned or, if the video recording contained more than one work to which the charge relates, each of those works was either an exempted work or a work in respect of which a classification certificate had been issued; or
  - (b) that the supply was, or would if it took place be, an exempted supply by virtue of section 8(4) or (5).

#### **2 Possession of video recording of unclassified work for the purposes of supply**

- (1) Where a video recording contains a video work in respect of which no classification certificate has been issued, a person who has the recording in his possession for the purpose of supplying it is guilty of an offence unless —

- (a) he has it in his possession for the purpose only of a supply which, if it took place, would be an exempted supply; or
  - (b) the video work is an exempted work.
- (2) It is a defence to a charge of committing an offence under this section to prove —
  - (a) that the accused believed on reasonable grounds that the video work concerned or, if the video recording contained more than one work to which the charge relates, each of those works was either an exempted work or a work in respect of which a classification certificate had been issued;
  - (b) that the accused had the video recording in his possession for the purpose only of a supply which he believed on reasonable grounds would, if it took place, be an exempted supply by virtue of section 8(4) or (5); or
  - (c) that the accused did not intend to supply the video recording until a classification certificate had been issued in respect of the video work concerned.

### **3 Supplying video recording of classified work in breach of classification**

- (1) Where a classification certificate issued in respect of a video work states that no video recording containing that work is to be supplied to any person who has not attained the age specified in the certificate, a person who supplies or offers to supply a video recording containing that work to a person who has not attained the age so specified is guilty of an offence unless the supply is, or would if it took place be, an exempted supply.
- (2) It is a defence to a charge of committing an offence under this section to prove —
  - (a) that the accused neither knew nor had reasonable grounds to believe that the classification certificate contained the statement concerned;
  - (b) that the accused neither knew nor had reasonable grounds to believe that the person concerned had not attained that age; or
  - (c) that the accused believed on reasonable grounds that the supply was, or would if it took place be, an exempted supply by virtue of section 8(4) or (5).

### **4 Special restrictions**

- (1) Where a classification certificate issued in respect of a video work contains a statement to the effect that, or is issued subject to a condition that, no video recording containing that work is to be supplied other than in a shop referred to in section 12 of the Video Recordings Act 1984 (an Act of Parliament), a person who in the Island —

- (a) supplies a video recording containing the work; or
  - (b) offers to do so,

is guilty of an offence unless the supply is, or would if it took place be, an exempted supply.
- (2) It is a defence to a charge of committing an offence under subsection (1) to prove —
  - (a) that the accused neither knew nor had reasonable grounds to believe that the classification certificate contained the statement concerned;
  - (b) that the accused believed on reasonable grounds that the supply was, or would if it took place be, an exempted supply by virtue of section 8(4).
- (3) Where a classification certificate issued in respect of a video work states that no video recording containing that work is to be supplied other than in a shop referred to in section 12 of the Video Recordings Act 1984 (an Act of Parliament), a person who has a video recording containing the work in his possession for the purpose of supplying it in the Island is guilty of an offence, unless he has it in his possession for the purpose only of a supply which, if it took place, would be an exempted supply.
- (4) It is a defence to a charge of committing an offence under subsection (3) to prove —
  - (a) that the accused neither knew nor had reasonable grounds to believe that the classification certificate contained the statement concerned; or
  - (b) that the accused had the video recording in his possession for the purpose only of a supply which he believed on reasonable grounds would, if it took place, be an exempted supply by virtue of section 8(4).

## 5 Requirements as to labelling, etc

- (1) The Isle of Man Office of Fair Trading (in this Act referred to as “**the Board**”) shall, in relation to video works in respect of which classification certificates have been issued, by regulations require such indication as may be specified by the regulations of any of the contents of any classification certificate to be shown in such a manner as may be so specified on any video recording containing the video work in respect of which the certificate was issued or any spool, case or other thing on or in which such a video recording is kept.<sup>1</sup>
- (2) A person who supplies or offers to supply a video recording or any spool, case or other thing on or in which the recording is kept which does not satisfy any requirement imposed by regulations under subsection (1) is

guilty of an offence unless the supply is, or would if it took place be, an exempted supply.

- (3) It is a defence to a charge of committing an offence under this section to prove that the accused —
  - (a) believed on reasonable grounds that the supply was, or would if it took place be, an exempted supply by virtue of section 8(4) or (5); or
  - (b) neither knew nor had reasonable grounds to believe that the recording, spool, case or other thing (as the case may be) did not satisfy the requirement concerned.
- (4) Regulations under this section shall not come into operation unless they are approved by Tynwald.

## **6 Supply of video recording containing false indication as to classification**

- (1) A person who supplies or offers to supply a video recording containing a video work in respect of which no classification certificate has been issued is guilty of an offence if the video recording or any spool, case or other thing on or in which the recording is kept contains any indication that a classification certificate has been issued in respect of that work unless the supply is, or would if it took place be, an exempted supply.
- (2) It is a defence to a charge of committing an offence under subsection (1) to prove —
  - (a) that the accused believed on reasonable grounds —
    - (i) that a classification certificate had been issued in respect of the video work concerned; or
    - (ii) that the supply was, or would if it took place be, an exempted supply by virtue of section 8(4) or (5); or
  - (b) that the accused neither knew nor had reasonable grounds to believe that the recording, spool, case or other thing (as the case may be) contained the indication concerned.
- (3) A person who supplies or offers to supply a video recording containing a video work in respect of which a classification certificate has been issued is guilty of an offence if the video recording or any spool, case or other thing on or in which the recording is kept contains any indication that is false in a material particular of any statement contained in the certificate, unless the supply is, or would if it took place be, an exempted supply.
- (4) It is a defence to a charge of committing an offence under subsection (3) to prove —
  - (a) that the accused believed on reasonable grounds —
    - (i) that the supply was, or would if it took place be, an exempted supply by virtue of section 8(4) or (5); or



- (ii) that the certificate concerned contained the statement indicated; or
- (b) that the accused neither knew nor had reasonable grounds to believe that the recording, spool, case or other thing (as the case may be) contained the indication concerned.

## **7 Exempted works**

- (1) Subject to subsection (2), a video work is for the purposes of this Act an exempted work if, taken as a whole —
  - (a) it is designed to inform, educate or instruct;
  - (b) it is concerned with sport, religion or music; or
  - (c) it is a video game.
- (2) A video work is not an exempted work for those purposes if, to any significant extent, it depicts —
  - (a) human sexual activity or acts of force or restraint associated with such activity;
  - (b) mutilation or torture of, or other acts of gross violence towards, humans or animals;
  - (c) human genital organs or human urinary or excretory functions;or is designed to any significant extent to stimulate or encourage anything falling within paragraph (a) or, in the case of anything falling within paragraph (b), is designed to any extent to do so.

## **8 Exempted supplies**

- (1) The provisions of this section apply to determine whether or not a supply of a video recording is an exempted supply for the purposes of this Act.
- (2) The supply of a video recording by any person is an exempted supply if it is neither —
  - (a) a supply for reward, nor
  - (b) a supply in the course or furtherance of a business.
- (3) Where on any premises facilities are provided in the course or furtherance of a business for supplying video recordings, the supply by any person of a video recording on those premises is to be treated for the purposes of subsection (2) as a supply in the course or furtherance of a business.
- (4) Where a person (in this subsection referred to as the “original supplier”) supplies a video recording to a person who, in the course of a business, makes video works or supplies video recordings, the supply is an exempted supply —
  - (a) if it is not made with a view to any further supply of that recording, or

- (b) if it is so made, but is not made with a view to the eventual supply of that recording to the public or is made with a view to the eventual supply of that recording to the original supplier.

For the purposes of this subsection, any supply is a supply to the public unless it is —

- (i) a supply to a person who, in the course of a business, makes video works or supplies video recordings,
- (ii) an exempted supply by virtue of subsection (2) or subsections (5) to (10), or
- (iii) a supply outside the Island and the United Kingdom.

(5) Where a video work —

- (a) is designed to provide a record of an event or occasion for those who took part in the event or occasion or are connected with those who did so,
- (b) does not, to any significant extent, depict anything falling within section 7(2), and
- (c) is not designed to any significant extent to stimulate or encourage anything falling within section 7(2)(a) or, in the case of anything falling within section 7(2)(b), is not designed to any extent to do so,

the supply of a video recording containing only that work to a person who took part in the event or occasion or is connected with someone who did so is an exempted supply.

(6) The supply of a video recording for the purpose only of the exhibition of any video work contained in the recording in premises other than a dwelling-house —

- (a) being premises mentioned in subsection (7); or
- (b) being an exhibition which would be a cinematograph exhibition to which section 9 of the *Cinematograph Act 1977* applies (exemptions for non-commercial exhibitions),

is an exempted supply.

(7) The premises referred to in subsection (6) are —

- (a) premises in respect of which a licence under section 1 of the *Cinematograph Act 1977* is in force; or
- (b) premises falling within section 8(1) of that Act (premises used only occasionally and exceptionally for film exhibitions); or
- (c) premises falling within section 8(2) of that Act (building or structure of a movable character) in respect of which such a licence as is mentioned in paragraph (a) of that section has been granted.

- (8) The supply of a video recording with a view only to its use for or in connection with a programme service (within the meaning of the *Communications Act 2021*) is an exempted supply.<sup>2</sup>
- (9) The supply of a video recording for the purpose only of submitting a video work contained in the recording for the issue of a classification certificate or otherwise only for purposes of arrangements made by the designated authority is an exempted supply.
- (10) The supply of a video recording with a view only to its use —
  - (a) in training for or carrying on any medical or related occupation,
  - (b) for the purpose of services provided in pursuance of the *National Health Service Act 2001*; or<sup>3</sup>
  - (c) in training persons employed in the course of services falling within paragraph (b),is an exempted supply.
- (11) For the purposes of subsection (10), an occupation is a medical or related occupation if, to carry on the occupation, a person is required to be a registered medical practitioner, a registered nurse or a registered midwife.<sup>4</sup>
- (12) The supply of a video recording otherwise than for reward, being a supply made for the purpose only of supplying it to a person who previously made an exempted supply of the recording, is also an exempted supply.

## PART 2 – REGISTRATION OF VIDEO RECORDING SUPPLIERS

### 9 Restriction on supply etc, of video recordings

- (1) No person shall, in the course of his business at any premises in the Island, —
  - (a) supply any video recording;
  - (b) offer or agree to supply any video recording; or
  - (c) expose or possess any video recording for supply,unless he is registered in respect of those premises in a register to be kept by the Board in accordance with this Part.
- (2) Separate registration under this Part is required in respect of each premises at which a person undertakes any of the activities specified in subsection (1)(a) to (c).
- (3) A person who contravenes subsection (1) is guilty of an offence.

- (4) Subsections (1) and (3) shall not apply to any person who is, or any class of persons who are, exempted by regulations made by the Department of Home Affairs.

## 10 The register

- (1) The register shall be in such form and contain such particulars as may be prescribed.
- (2) The register shall be kept at the office of the Board.
- (3) The register shall be a public register and shall be open to inspection at any time during the ordinary office hours of the Board.

## 11 Registration

- (1) Applications for registration shall be made in writing to the Board.
- (2) An applicant for registration shall provide the Board with such documents and information as may be required by the Board and before registering an applicant, the Board may refer the application for registration to the Chief Constable for his comments.
- (3) Registration may be effected subject to such conditions in accordance with which the registered person may undertake the activities specified in section 9(1)(a) to (c) as the Board may consider appropriate; and those conditions shall be entered in the register.
- (4) The Board shall notify the applicant of its decision on an application for registration and of the reasons for its decision.
- (5) Registration shall, unless previously cancelled, be valid for 12 months or such longer period as may be prescribed, and the provisions of this Part relating to applications, fees and registration shall apply accordingly.
- (6) The fee for registration under this Part shall be such sum as is prescribed under Part 5, Division 4 (general fee power) of the *Interpretation Act 2015*.<sup>5</sup>
- (7) A person who contravenes a condition of registration is guilty of an offence.

## 12 Certificate of registration

- (1) When registration is effected, the Board shall issue to the registered person a certificate of registration.
- (2) A registered person shall display or cause to be displayed in a prominent position at his business premises when any of the activities specified in section 9(1)(a) to (c) are undertaken there a current certificate of registration relating to those premises.
- (3) A person who fails to comply with subsection (2) is guilty of an offence.

### **13 Refusal of registration**

The Board shall refuse to register an applicant for registration under this Part if —

- (a) it is satisfied that the applicant is not a fit and proper person to be registered;
- (b) it is satisfied that the premises at which any of the activities specified in section 9(1)(a) to (c) are undertaken are for any reason unsuitable for the purpose; or
- (c) the applicant is disqualified under section 22(3).

### **14 Appeal against refusal**

- (1) An applicant for registration may appeal to the High Bailiff against the refusal.
- (2) The High Bailiff may dismiss or allow an appeal under subsection (1).
- (3) Where an appeal is allowed, the High Bailiff may direct the Board to register the applicant and the Board shall comply with such direction.
- (4) The High Bailiff may make such order in respect of costs as he may consider just.

### **15 Regulations**

- (1) The Department of Home Affairs may make regulations to provide for —
  - (a) anything which, under this Part, is required to be, or may be prescribed or which may be provided for by regulations;
  - (b) the form and content of the register;
  - (c) the form and content of certificates of registration;
  - (d) the period within which an appeal under section 14 may be commenced;
  - (e) the practice and procedure to be adopted in relation to such appeals.
- (2) Before making any regulations the Department of Home Affairs shall consult with such persons as appear to it to be likely to be affected by the proposed regulations.
- (3) Regulations shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the regulations are laid or at the next following sitting fails to approve them, the regulations shall cease to have effect.

### **16 False statements etc**

Any person who —

- (a) causes or permits to be included in any book or document provided or produced to the Board, a statement which he knows to be false in a material particular or recklessly causes or permits to be so included any statement which is false in a material particular; or
- (b) in purported compliance with any provision of this Act or a requirement imposed under any such provision, provides information which he knows to be false in a material particular or recklessly provides information which is false in a material particular,

is guilty of an offence.

## 17 Offences under Part 2: defence

In proceedings against a person for an offence under this Part it shall be a defence for the person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

## PART 3 – GENERAL AND SUPPLEMENTARY

## 18 Enforcement

- (1) The functions of the Board include the enforcement of this Act.
- (2) The following provisions of the *Consumer Protection (Trade Descriptions) Act 1970* apply in relation to the enforcement of this Act by the Board as in relation to the enforcement of that Act —
  - section 27 (power to make test purchases),
  - section 28 (power to enter premises and inspect and seize goods and documents),
  - section 29 (obstruction of inspectors), and
  - section 33 (compensation for loss, etc. of goods seized under s 28).
- (3) Any enactment which authorises the disclosure of information for the purpose of facilitating the enforcement of the *Consumer Protection (Trade Descriptions) Act 1970* shall apply as if the provisions of this Act were contained in that Act and as if the functions of any person in relation to the enforcement of this Act were functions under that Act.

## 19 Arrest by a constable

If a constable has reasonable grounds for suspecting that a person has committed an offence under this Act, he may require him to give his name and address and, if that person refuses or fails to do so or gives a name and address which the constable reasonably suspects to be false, the constable may arrest him without warrant.

## **20 Offences by bodies corporate**

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## **21 Evidence**

- (1) The Board may by regulations provide that certificates issued by such persons as may be specified by the regulations in relation to such matters as may be so specified shall, subject to the provisions of this section, be received in evidence of those matters in any proceedings for an offence under this Act.
- (2) A certificate under subsection (1) shall be evidence of the facts stated.
- (3) This section does not make a certificate admissible as evidence in proceedings for an offence under this Act unless a copy of the certificate has, not less than 7 days before the hearing, been served on the person charged with the offence.
- (4) Any document purporting to be a certificate under subsection (1) shall be deemed to be such a certificate unless the contrary is shown.
- (5) Regulations under this section shall not come into operation unless they are approved by Tynwald.

## **22 Penalties**

- (1) A person guilty of an offence under section 1, 2 or 3 shall be liable —
  - (a) on summary conviction, to a fine not exceeding 4 times level 5 on the standard scale or imprisonment for a term not exceeding 6 months, or to both;<sup>6</sup>
  - (b) on conviction on information, to a fine or to a term of imprisonment not exceeding 2 years, or to both.
- (2) A person guilty of an offence under any other provision of this Act shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.<sup>7</sup>

- (3) Where a registered person is convicted of any offence under this Act, the court by which he is convicted may, in addition to imposing any other penalty —
  - (a) order the cancellation of all registrations under that person's name; and
  - (b) disqualify that person for being registered for such period (not exceeding 5 years) as the court may order.
- (4) Where a court makes an order under subsection (3)(a), the Board shall accordingly cancel the registration of the person concerned.

## 23 Forfeiture

- (1) Where a person is convicted of an offence under this Act, the court may order any video recording —
  - (a) produced to the court, and
  - (b) shown to the satisfaction of the court to relate to the offence, to be forfeited.
- (2) The court shall not order any video recording to be forfeited under subsection (1) if a person claiming to be the owner of it or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.
- (3) References in this section to a video recording include a reference to any spool, case or other thing on or in which the recording is kept.
- (4) An order made under subsection (1) shall not take effect until the expiration of the ordinary time within which an appeal may be instituted or, where such an appeal is duly instituted, until the appeal is finally decided or abandoned; and for this purpose —
  - (a) an application for a case to be stated or for leave to appeal shall be treated as the institution of an appeal; and
  - (b) where a decision on appeal is subject to a further appeal, the appeal is not finally decided until the expiration of the ordinary time within which a further appeal may be instituted or, where a further appeal is duly instituted, until the further appeal is finally decided or abandoned.

## 24 Interpretation

- (1) In this Act —
  - “**Board**” has the meaning given in section 5(1);
  - “**business**”, except in section 8(4), includes any activity carried on by a club;



“**classification certificate**” means a current certificate issued in accordance with the Video Recordings Act 1984 (an Act of Parliament) by the authority designated under section 4 of that Act in respect of a video work;

“**premises**” includes any vehicle, vessel or stall;

“**supply**” means supply in any manner, whether or not for reward, and, therefore, includes supply by way of sale, letting on hire, exchange or loan; and references to a supply are to be interpreted accordingly;

“**video recording**” means any disk or magnetic tape containing information by the use of which the whole or a part of a video work may be produced;

“**video work**” means any series of visual images (with or without sound) —

- (a) produced electronically by the use of information contained on any disk or magnetic tape; and
  - (b) shown as a moving picture.
- (2) For the purposes of this Act, a video recording contains a video work if it contains information by the use of which the whole or a part of the work may be produced; but where a video work includes any extract from another video work, that extract is not to be regarded for the purposes of this subsection as a part of that other work.
- (3) Where any alteration or addition is made to a video work in respect of which a classification certificate has been issued, the classification certificate is not to be treated for the purposes of this Act as issued in respect of the work as altered or added to.
- (4) Any reference in this Act to an Act of Parliament shall be construed as a reference to that Act as it has effect from time to time and to any subsequent Act of Parliament replacing such Act whether with or without amendment.

## **25 Amends Obscene Publications and Indecent Advertisements Act 1907**

[Amends the *Obscene Publications and Indecent Advertisements Act 1907* as follows: paragraph (a) inserts section 2A; and paragraph (b) inserts the definition of “representation” in section 11A.]

## **26 Financial provision**

There shall be paid out of monies provided by Tynwald any increase in the expenses of the Board which are attributable to this Act.

## **27 Short title and commencement**

- (1) This Act may be cited as the Video Recordings Act 1995.

- (2) This Act shall come into operation on such day as the Department of Home Affairs may by order appoint, and different days may be appointed for different provisions and for different purposes.<sup>8</sup>

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> Subs (1) amended by SD579/98.

<sup>2</sup> Subs (8) amended by Communications Act 2021 Sch 9.

<sup>3</sup> Para (b) amended by National Health Service Act 2001 Sch 4.

<sup>4</sup> Subs (11) amended by Health Care Professionals Act 2014 s 14.

<sup>5</sup> Subs (6) amended by Interpretation Act 2015 s 106.

<sup>6</sup> Para (a) amended by Interpretation Act 2015 s 55.

<sup>7</sup> Subs (2) amended by Fines and Penalties Act 2024 Sch 5.

<sup>8</sup> ADO (Part 1 (ss 1 to 8), Part 3 (ss 18 to 27)) 1/9/1996 (SD298/96); (Part 2 (ss 9 to 17, except s 9(1) and (3)) 1/7/1997, (s 9(1) and (3)) 1/10/1997 (SD200/97).