



ANALYSIS

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1990, No. 59

An Act to amend the Video Recordings Act 1987

[3 July 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Video Recordings Amendment Act 1990, and shall be read together with and deemed part of the Video Recordings Act 1987 (hereinafter referred to as the principal Act).

(2) Except as provided in subsection (3) of this section, this Act shall come into force on the 14th day after the date on which it receives the Royal assent.

(3) Sections 2 (2), 4, 6, 7, and 11 (3) of this Act shall come into force on the 1st day of November 1990.

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “Minister”, the following definitions:

“‘Premises’ means any building, enclosure, ground, or open-air space; and includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle:

“‘Public place’ has the meaning given to it by section 2 of the Summary Offences Act 1981:”.

(2) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “rating”, the following definition:

“‘Register’ means the Register of Video Recordings kept under section 28 of this Act.”.

(3) Section 2 of the principal Act is hereby amended by adding the following subsection:

“(2) Nothing in paragraph (b) (ii) of the definition of ‘supply’ in subsection (1) of this section applies in respect of the sale, hire, exchange, or loan, by any person, of any video recording where—

“(a) That video recording has been classified under section 15 (1) of the Films Act 1983 as approved for exhibition only to persons of or over a specified age (the specified age being an age that is 16 years or more); and

“(b) That person offers that video recording for sale, hire, exchange, or loan to the public, or to any section of the public, either—

“(i) By displaying, or causing or permitting to be displayed, on any premises where video recordings are sold, hired, exchanged, or lent, or offered for sale, hire, exchange or loan, that video recording, or any cassette, case, or other container in which that video recording is made available to any person, or any poster or other advertising material advertising that video recording; or

“(ii) By publishing, or causing to be published, in any newspaper or other document intended to be made available to the public or any section of the public, or by broadcasting, or causing to be broadcast, by radio or television or otherwise, any advertisement advertising that video recording as being available for purchase, hire, exchange, or loan.”

3. Video Recordings Authority—Section 16 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsections:

“(4) Every person appointed under subsection (2) of this section may be appointed for any period not exceeding 3 years, and may be reappointed for one further period not exceeding 3 years.

“(4A) Nothing in subsection (4) of this section prevents the appointment under subsection (2) of this section of any person

who has previously held office under subsection (2) of this section, but no such person shall be so appointed unless at least 3 years have elapsed since that person last held office under subsection (2) of this section.”

4. Court to refer questions of indecency to Authority—

Section 20 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Where any video recording has been referred to the Authority, and the Authority or the Board of Review has classified that video recording, the production in any proceedings of a copy, certified by the Authority, of the entry in the register recording that decision, together with a certificate from the Authority that that decision is still in force, shall be sufficient proof in any Court of the decision, and if that decision is conclusive proof of the classification of that video recording under section 29 of this Act, the Court shall dispense with a reference to the Authority in those proceedings.”

5. Authority may require soundtrack to be translated into English—The principal Act is hereby amended by inserting, after section 21, the following new section:

“21A. (1) Where,—

“(a) In respect of any video recording submitted to it under—

“(i) Section 15 of this Act; or

“(ii) Section 30 of this Act by the owner, maker, distributor, or supplier of the video recording,—
the Authority is required, pursuant to section 21 (4) of this Act, to take into consideration the content of any accompanying soundtrack; and

“(b) That soundtrack, or part of that soundtrack (other than isolated words or phrases), is not in the English language or the Maori language,—

the Authority may—

“(c) Require the person who submitted that video recording to supply to the Authority an English translation, by a translator approved by the Authority, of that soundtrack, or part of that soundtrack; or

“(d) With the consent of the person who submitted that video recording, arrange for an English translation to be made of that soundtrack, or part of that soundtrack.

“(2) Where the Authority arranges for the translation of a soundtrack, or part of a soundtrack, pursuant to subsection (1) (d) of this section, the Authority may require the

person who submitted the video recording to which that soundtrack relates to meet all or part of the costs of that translation, and such costs shall be recoverable under this section as a debt due to the Crown.

“(3) Where, in respect of any video recording submitted to the Authority under section 15 or section 30 of this Act,—

“(a) The person who submitted that video recording is required, pursuant to subsection (1)(c) of this section, to supply to the Authority an English translation of the soundtrack, or part of the soundtrack, accompanying that video recording, and that person refuses or fails, within such reasonable period as the Authority may allow, to supply that translation; or

“(b) The person who submitted that video recording is required, pursuant to subsection (2) of this section, to meet all or part of the costs of translating the soundtrack, or part of the soundtrack, accompanying that video recording, and that person refuses or fails, within such reasonable period as the Authority may allow, to pay those costs,—

the submission of that video recording to the Authority shall be deemed to have been withdrawn, and the Authority shall notify the person who submitted that video recording accordingly.”

6. New sections substituted—(1) The principal Act is hereby amended by repealing section 28, and substituting the following sections:

“28. **Register of Video Recordings**—(1) The Authority shall set up and maintain a Register of Video Recordings.

“(2) The Authority shall enter in the register, in respect of each video recording examined by the Authority or the Board of Review under this Act,—

“(a) The decision and classification made by the Authority in respect of that video recording; and

“(b) Where that video recording is examined by the Board of Review, the decision and classification made by the Board in respect of that video recording; and

“(c) Such other particulars as may be prescribed.

“(3) The register shall be open to inspection by the public during ordinary office hours.

“(4) Notwithstanding anything in subsection (2) of this section, where, before the commencement of this section, any decision and classification that has been made by the Authority,

or by the Board of Review, in respect of any video recording has been published in the *Gazette*, that decision and classification shall be deemed to have been entered in, and to form part of, the register.

“28A. Authority to publish list of decisions—(1) The Authority shall, not later than the 10th working day of every month, produce a list, in alphabetical order, of the video recordings that, during the month immediately preceding the month in which the list is produced, have been examined by the Authority or the Board of Review and in respect of which the Authority or the Board of Review has made a decision.

“(2) Every list produced in accordance with subsection (1) of this section shall contain—

“(a) Such particulars of the video recordings listed in it as may be prescribed; and

“(b) Such decisions of the Board as are required, pursuant to section 38 (8) (d) (ii) of this Act, to be published by the Authority.

“(3) The lists produced in accordance with subsection (1) of this section shall be kept by the Authority, and shall be open to inspection by the public during ordinary office hours.

“(4) Every person shall, on request, and on payment of such fee (if any) as the Authority may determine, be entitled to a copy of any list produced in accordance with subsection (1) of this section.

“(5) Any fee charged under subsection (4) of this section for any copy of any list produced in accordance with subsection (1) of this section shall be no more than is reasonably required to recover the costs of making that copy.

“(6) For the purposes of this section, ‘working day’ means any day of the week other than—

“(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and

“(b) A day in the period beginning with the 25th day of December in any year and ending with the 15th day of January in the following year.”

(2) The principal Act is hereby consequentially amended by omitting from section 29 (2), and also from subsection (1) and subsection (2) of section 30 and from section 37 (1) (b), the words “published in the *Gazette* pursuant to section 28”, and substituting in each case the words “recorded in any list produced in accordance with section 28A”.

7. Conduct of reviews—Section 38 (8) of the principal Act is hereby amended by adding to paragraph (c) the word “; and”, and by inserting, after that paragraph, the following paragraph:

“(d) Direct the Authority—

“(i) To enter the Board’s decision in the Register of Video Recordings; and

“(ii) To publish that decision in the next list produced, in accordance with section 28A of this Act, after the end of the month in which that direction is given.”

8. Dealing for purposes of Films Act 1983 not an offence—Section 54 of the principal Act is hereby amended by adding the following subsection:

“(2) Nothing in subsection (1) of this section applies in respect of the possession, reproduction, distribution, delivery, sale, or hire, or the offering for sale or hire, by any person, of any indecent video recording, where that person offers, by any of the means specified in section 2 (2) (b) of this Act, to supply that video recording to the public.”

9. Search warrants—Section 57 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) It shall not be necessary to issue a summons under subsection (2) of this section in respect of any video recording that the Authority or the Board of Review has classified as not indecent or as a restricted video recording.”

10. Disposal following conviction—Section 58 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsection:

“(2) It shall not be necessary to issue a summons under section 57 (2) of this Act in respect of any video recording that is the subject of an order made under subsection (1) of this section.”

11. Regulations—(1) Section 69 of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraphs:

“(da) Providing for the dissemination, by the labelling body, of notice of the rating and description (if any) assigned by it to any video recording, and for the

labelling body to charge a reasonable fee for supplying to any person a copy of any such notice:

“(db) Requiring advertising material (including catalogues, and radio and television advertising) advertising any video recording as being available for supply to include information relating to the rating or classification assigned to that video recording, and any description assigned to that video recording, and prescribing the form and manner in which that information shall be included in that advertising material.”.

(2) Section 69 (e) of the principal Act is hereby amended by omitting the words “and classifications”, and substituting the words “, classifications, and descriptions”.

(3) Section 69 of the principal Act is hereby amended by inserting, after paragraph (f), the following paragraphs:

“(fa) Prescribing the form and content of the register to be kept pursuant to section 28 of this Act:

“(fb) Prescribing the form and content of the lists to be produced pursuant to section 28A of this Act:”.

This Act is administered in the Department of Internal Affairs.
