

[AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL
GOVERNMENT COMMITTEE]

House of Representatives, 5 February 1987.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. Peter Tapsell

VIDEO RECORDINGS

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No. 185—2

Price \$4.50

incl. GST \$4.95

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A BILL INTITULED

An Act to make provision for the labelling of video recordings offered for sale or hire, and the determination of questions relating to the indecency of certain video recordings

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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 Act **(1985) 1986**.

(2) Subject to **subsection (3)** of this section, this Act shall come into force on the 1st day of July **(1986) 1987**.

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(3) **Part I** of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council, and different dates may be so appointed for different provisions and for different purposes.

2. Interpretation—In this Act, unless the context otherwise requires,—

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“Approve” means approve as **(a labelling body)** the labelling body under **section 6** of this Act, and “approval” has a corresponding meaning:

“Classification” means the classification given to a video recording under **section 19** or **section 31** of this Act:

20

“Description” means the description of the contents of a video recording assigned to it under this Act:

“Films Censorship Board of Review” means the Films Censorship Board of Review constituted by **section 25** of the Films Act 1983:

25

“Indecent” includes describing, depicting, expressing, or otherwise dealing with matters of sex, horror, crime, cruelty, or violence in a manner that is injurious to the public good:

30

“Label” means a label issued in respect of a video recording under this Act:

“Labelling body” means *(a body)* the body approved by the Minister under **section 6** of this Act:

“Minister” means the Minister of Internal Affairs:

5 “Rating” means the description of the audience for which a video recording is suitable (as determined in accordance with regulations made under this Act) assigned to a video recording under this Act:

“Restricted video recording” means a video recording classified under **section 19 (b) to (d)** of this Act:

10 “Secretary” means the Secretary for Internal Affairs:

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“Supply” means supply by way of sale, hire, exchange, or loan, in the course of any business:

15 “Video recording” means any disc, magnetic tape, or solid state recording device on which a series of visual moving images (with or without sound) has been recorded and which is capable of being used for the subsequent display of those images and the reproduction of any sound associated with those images; and also includes any part of any video recording, and any copy or part of a copy of the whole or any part of a video recording:

New

“Supply”, in relation to any video recording,—

25 (a) Means supply by way of sale, hire, exchange, or loan, in the course of any business; and includes sale, hire, exchange, or loan by—

(i) Any public library; or

30 (ii) Any club or association, whether public or private, and whether incorporated or unincorporated, which, as part of its activities, makes video recordings available to its members; but

(b) Does not include—

35 (i) Any supply of any video recording to any person who makes or distributes or supplies video recordings, unless that person intends to supply that video recording to the public or, in the case of a club or association to which **paragraph (a) (ii)** of this definition applies, to its members; or

40

New

(ii) Any supply of any video recording where that supply is made for any purpose related to the exhibition of that video recording in accordance with the Films Act 1983: 5

“Video game”, means any video recording which is designed for use wholly or principally as a game:

“Video recording” means any disc, magnetic tape, or solid state recording device containing information by the use of which one or more series of visual images (with 10 or without sound) may be produced electronically and shown as a moving picture; and also includes any part of any video recording, and any copy or part of a copy of the whole or any part of a video recording:

“Video Recordings Authority” or “Authority” means the 15 Video Recordings Authority established by **section 12** of this Act:

“Video Recordings Board of Review” or “Board of Review” or “Board” means the Video Recordings Board of Review established by **section 24** of this Act. 20

3. Administration of Act—(1) Subject to the control of the Minister, the Secretary shall be responsible for the general administration of this Act.

(2) The Video Recordings Authority shall be subject to the general direction of the Secretary for Internal Affairs. 25

(3) Nothing in subsection (1) or subsection (2) of this section shall derogate from any of the powers, duties, and discretions conferred or imposed on the Video Recordings Authority by this Act.

4. Act to bind the Crown—This Act (*shall bind*) binds the 30 Crown.

PART I

LABELLING OF VIDEO RECORDINGS

Struck Out

5. Video recordings to be labelled—(1) Subject to **subsection (3)** of this section, no person shall supply or offer for supply, any video recording, unless the video recording bears a label affixed in accordance with regulations made under this Act. 35

(2) Every label affixed pursuant to **subsection (1)** of this section shall— 40

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- (a) Be in the prescribed form; and
- (b) Contain the following matters:
- 5 (i) The rating assigned to that video recording;
- (ii) The description (if any) assigned to that video recording;
- (iii) Where the video recording has been classified under **section 19** of this Act, that classification;
- (iv) Such other matters as may be prescribed.
- 10 (3) Except when the video recording has been classified under **section 19 (b) to (d)** of this Act, the requirements of **subsection (1)** of this section shall not apply to any video recording which, taken as a whole, is a video game.
- (4) For the purposes of this section,—
- 15 (a) The rating and the description (if any) assigned to any video recording under **section 9** of this Act; and
- (b) The classification (if any) of that video recording under **section 19** of this Act—
- 20 shall be deemed to apply to every copy of that video recording which is identical in content with it.

New

25 **5. Video recordings to be labelled**—Subject to **section 5A** of this Act, no person shall supply or offer for supply any video recording unless the video recording bears a label issued under this Act.

- 5A. Video recordings exempt from labelling requirements**—(1) Subject to **subsection (2)** of this section, **section 5** of this Act shall not apply in respect of any of the following video recordings:
- 30 (a) Any video recording owned, produced, or sponsored by, and relating to the policy, functions, or operations of,—
- (i) Any Government Department named in Part I of the First Schedule to the Ombudsmen Act 1975;
- 35 (ii) Any organisation named in Part II of the First Schedule to the Ombudsmen Act 1975 or in the First Schedule to the Official Information Act 1982;
- (iii) Any local organisation named or specified in Part III of the First Schedule to the Ombudsmen Act
- 40 1975:

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|--|----|
| (b) Any video recording directly related wholly or principally to personnel training and development, or public, business, or industrial administration, management, and organisation: | 5 |
| (c) Any video recording depicting wholly or principally agricultural, industrial, or manufacturing processes or technological development: | |
| (d) Any pure, applied, physical, or natural scientific video recording: | 10 |
| (e) Any video recording relating wholly or mainly to the social sciences, including economics, geography, anthropology, and linguistics: | |
| (f) Any natural history video recording, and any video recording depicting wholly or principally natural scenery: | 15 |
| (g) Any video recording depicting wholly or principally sporting events or recreational activities: | |
| (h) Any video recording which is designed to provide a record of an event or occasion (such as a wedding) for those who took part in the event or occasion or are connected with those who did so: | 20 |
| (i) Any video recording depicting wholly or mainly surgical or medical techniques and used for educational and instructional purposes: | 25 |
| (j) Any video recording that is wholly or mainly a commercial advertisement relating to the advertiser's or sponsor's activities. | |
| (k) Any video recording wholly or mainly of a religious nature: | 30 |
| (l) Any video recording depicting wholly or mainly travel: | |
| (m) Any video recording depicting wholly or mainly cultural activities: | |
| (n) Any video game. | |
| (2) Nothing in subsection (1) of this section shall exempt any video recording from the requirements of section 5 of this Act if the video recording has been classified under section 19 (b) to (d) of this Act. | 35 |
| Cf. 1983, No. 130, ss. 9 (1), 10 (1), 11 (1) | |

6. Approval of labelling body—(1) Subject to this Act, the Minister may from time to time, on application made to the Minister in accordance with **section 7** of this Act, approve any body or organisation to act as *(a labelling body)* the labelling body for the purposes of **section 8** of this Act. 40

- (2) An approval shall—
- (a) Be made by notice published in the *Gazette*, and shall take effect from the date of such notice or such later date as may be specified in the notice; and
- 5 (b) Continue in force until it is withdrawn (*or terminated under subsection (5) of this section*) under section 6A of this Act.
- (3) The Minister may grant an approval subject to such conditions as the Minister thinks fit.
- (4) The Minister shall not approve a body or organisation
- 10 unless the Minister is satisfied that—
- (a) The body or organisation is representative of persons engaged in—
- (i) The distribution or supply of video recordings in New Zealand; or
- 15 (ii) The production of video recordings in New Zealand; and
- (b) The body or organisation is capable of implementing a system to assign a rating and description to any video recording referred to it for the issue of a label; and
- 20 (c) The body or organisation will take all reasonable steps to ensure that notice of the rating and description assigned to any such video recording is disseminated to persons engaged in the production, distribution, and supply of video recordings.

25 *Struck Out*

(5) The Minister may at any time revoke an approval by notice in writing published in the *Gazette*, and a labelling body may at any time terminate its approval by notice in writing addressed to the Minister.

30 *New*

- (5) The Minister shall not decline an application for approval without first giving the applicant—
- (a) A copy of any information on which the Minister relies in proposing to decline the application; and
- 35 (b) A reasonable opportunity to make written submissions to the Minister in relation to that information.

6A Revocation of approval—(1) Subject to **subsection (2)** of this section the Minister may at any time revoke an approval by notice in writing published in the *Gazette* if the Minister is

40 satisfied that the labelling body—

New

- (a) No longer meets all of the requirements for approval specified in paragraphs (a) to (c) of section 6 (4) of this Act; or
- (b) Has failed to comply with any condition imposed by the Minister on that body's approval; or 5
- (c) Has failed to comply with any obligation imposed on that labelling body by or under this Act.
- (2) The Minister shall not revoke any approval pursuant to subsection (1) of this section unless the labelling body has first 10
been given an opportunity to be heard.

7. Application for approval as labelling body—(1) An application for approval as (*a labelling body*) the labelling body under section 6 of this Act shall specify—

- (a) The constitution and rules of the body or organisation 15
seeking approval; and
- (b) The procedure by which that body or organisation proposes to carry out the functions of (*a labelling body*) the labelling body under section 8 of this Act.
- (2) In addition to the particulars required under subsection (1) 20
of this section, the Minister may, for the purposes of deciding whether to grant an approval, require any body or organisation which applies for an approval to furnish to the Minister such further information as the Minister requires relating to the matters specified in section 6 (4) (a) to (c) of this Act. 25

Struck Out

8. Functions of labelling body—The functions of a labelling body approved under section 6 of this Act shall be as follows:

- (a) In accordance with regulations made under this Act, to 30
assign a rating to any video recording referred to it for the issue of a label:
- (b) Where appropriate, to assign a description to any such video recording to indicate the extent and degree to 35
which that video recording contains anti-social behaviour, cruelty, violence, crime, horror, sex, or offensive language or behaviour:
- (c) To issue in respect of any such video recording a label 40
which contains the rating and description (if any) assigned to that video recording.

New

8. Functions of labelling body—The functions of the labelling body shall be as follows:

- 5 (a) In accordance with regulations made under this Act,—
- (i) To assign a rating to any video recording referred to it for the issue of a label:
- (ii) Where appropriate, to assign a description to any such video recording to indicate whether it contains anti-social behaviour, cruelty, violence, 10 crime, horror, sex, or offensive language or behaviour:
- (b) To issue in respect of any such video recording a label which contains the rating and description (if any) assigned to that video recording.

15

Struck Out

9. Issue of labels—(1) Subject to **subsection (2)** of this section, any person who, in the course of that person's business, produces, distributes, or supplies video recordings may apply to a labelling body for the issue of a label in respect of any 20 video recording.

(2) **Subsection (1)** of this section shall not apply to any video recording in respect of which a label has already been issued under this section, or to a video recording which has been classified under this Act as indecent.

25 (3) On an application to it under **subsection (1)** of this section, the labelling body shall, as soon as practicable, examine the video recording, and, subject to **subsection (4)** of this section and **section 11** of this Act, the labelling body shall issue in respect of that video recording a label containing—

30 (a) The rating assigned to that video recording by the labelling body in accordance with regulations made under this Act; and

(b) Where appropriate, a description of the contents of that video recording indicating the extent and degree to which that video recording contains anti-social behaviour, cruelty, violence, crime, horror, sex, or 35 offensive language or behaviour.

(4) The labelling body shall not issue a label in respect of any video recording that has been classified by the Authority 40 as indecent.

Struck Out

(5) Every person commits an offence, and is liable on summary conviction to a fine not exceeding, in the case of an individual, \$2,000 and, in the case of a body corporate, \$5,000 who, not being a labelling body, issues or purports to issue any label that is intended or is likely, by reason of its wording or appearance, or in any other manner, to cause any person to believe, contrary to the fact, that the label was issued by a labelling body or the Authority. 5

New

9. Applications for issue of label—(1) Subject to this section, any person who produces, distributes, or supplies video recordings may apply to the labelling body for the issue of a label in respect of any video recording. 10

(2) **Subsection (1)** of this section shall not apply to any video recording in respect of which a label has already been issued under this Act, or to a video recording which has been classified under this Act as indecent. 15

(3) Subject to **subsection (4)** of this section, every application under **subsection (1)** of this section shall be accompanied by— 20

(a) A copy of the video recording in respect of which the application is made; and

(b) The fee set by the labelling body for such an application.

(4) The labelling body may, in accordance with regulations made under this Act, exempt any applicant from the requirements of **subsection (3) (a)** of this section. 25

9A. Issue of labels—(1) Subject to any regulations made under this Act, on receiving any application under **section 9 (1)** of this Act, the labelling body shall, as soon as practicable, examine the video recording, and, subject to **subsection (2)** of this section and to **section 11** of this Act, shall issue in respect of that video recording a label containing— 30

(a) The rating assigned to that video recording by the labelling body; and

(b) Where appropriate, a description of the contents of that video recording indicating whether that video recording contains anti-social behaviour, cruelty, violence, crime, horror, sex, or offensive language or behaviour. 35

New

(2) The labelling body shall not issue a label in respect of any video recording that has been classified by the Authority as indecent.

5 (3) For the purposes of this Part of this Act, the rating and description (if any) assigned to any video recording under this section shall be deemed to apply to every copy of that video recording which is identical in content with it.

10 (4) Every person commits an offence, and is liable on summary conviction to a fine not exceeding, in the case of an individual, \$3,000 and, in the case of a body corporate, \$10,000 who, not being the labelling body, issues or purports to issue any label that is intended or is likely, by reason of its wording or appearance, or in any other manner, to cause any person
15 to believe, contrary to the fact, that the label was issued under this Act.

10. Offences—(1) Every person commits an offence who supplies or offers for supply any video recording—

20 (a) To which the label required by **section 5** of this Act is not affixed; or

(b) To which a label which purports to be issued in respect of that video recording is affixed, where that person knows or has reasonable grounds for believing that no label has been issued in respect of that video
25 recording; or

(c) To which a label other than the label issued in respect of that video recording is affixed; or

Struck Out

30 (d) To which the label is affixed other than in accordance with **section 5** of this Act.

New

(d) To which the label is affixed other than in accordance with regulations made under this Act.

35 (2) Every person who commits an offence against **subsection (1)** of this section is liable on summary conviction to a fine not exceeding,—

(a) In the case of an individual, ~~(\$2,000)~~ \$3,000;

(b) In the case of a body corporate, ~~(\$5,000)~~ \$10,000.

11. Labelling body may submit video recording to Authority—

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- (1) In any case where a labelling body—
- (a) Considers that any video recording submitted to it would be likely to be classified by the Authority as indecent; or
- (b) Is having substantial difficulty in determining the appropriate rating to assign to any video recording—
- the labelling body may, with the leave of the Secretary obtained on application made to the Secretary in the prescribed manner, submit that video recording to the Authority for examination and classification pursuant to **sections 17 and 19** of this Act.

New

- (1) Where the labelling body is not empowered, under regulations made under this Act, to assign a rating to any video recording in respect of which an application is made under **section 9 (1)** of this Act, the labelling body shall submit that video recording to the Authority for examination and classification pursuant to **sections 17 and 19** of this Act.
- (1A) Where the labelling body is having substantial difficulty in determining the appropriate rating to assign to any video recording, the labelling body may, with the leave of the Secretary obtained on application made on the form provided for that purpose by the Secretary, submit that video recording to the Authority for examination and classification pursuant to **sections 17 and 19** of this Act.
- (2) Where the Authority directs, under **section 20** of this Act, that a label should be issued in respect of any video recording submitted to it under **subsection (1) or subsection 1A** of this section, the labelling body shall issue a label in accordance with the direction of the Authority.

PART II

INDECENT VIDEO RECORDINGS

12. Video Recordings Authority—(1) For the purposes of this Act there is hereby established an Authority to be called the Video Recordings Authority.

(2) There shall from time to time be appointed—

(a) Under the State Services Act 1962; or

(b) By the Secretary, subject to such terms and conditions as the State Services Commission may approve,—
5 a person to be the Video Recordings Authority, and such other
5 persons as may be required to assist the Authority in carrying
out its functions and powers under this Act.

(3) Any such office may be held either separately or in conjunction with any other office in the Public Service.

(4) Every person appointed under **subsection (2) (b)** of this
10 section may be appointed for any period not exceeding 3 years,
but may from time to time be reappointed.

(5) Every person appointed under **subsection (2) (b)** of this
section shall be paid, from the Consolidated Account out of
money appropriated by Parliament for the purpose, such
15 remuneration and allowances as may from time to time be
determined by the State Services Commission.

(6) No such person shall be deemed to be employed in the
Public Service for the purposes of the State Services Act 1962,
or in the Government service for the purposes of the
20 Government Superannuation Fund Act 1956, merely because
that person holds office under this section.

Cf. 1983, No. 130, s. 5

13. Authority may delegate powers—(1) The Authority
may from time to time, either generally or specifically, delegate
25 any of its powers (except this power of delegation) to any
person appointed to assist the Authority under **section 12 (2)** of
this Act.

(2) Any person to whom any such delegation is made may
exercise or perform the delegated powers in the same manner
30 and with the same effect as if they had been conferred by this
section and not by delegation.

(3) Any person purporting to act pursuant to any such
delegation shall be presumed to be acting in accordance with
the terms of the delegation in the absence of proof to the
35 contrary.

(4) Any delegation under this section may be revoked at any
time and no delegation of any power or function shall prevent
the exercise of that power or function by the Authority.

(5) Until any such delegation is revoked, it shall continue in
40 force according to its tenor.

Struck Out

14. Functions of Authority—The functions of the Authority shall be—

- (a) To determine the character of any video recording submitted to it for classification under **section 11 or section 15** of this Act: 5
- (b) To classify such video recordings as—
 - (i) Not indecent; or
 - (ii) Indecent if viewed by persons under a specified age; or 10
 - (iii) Indecent unless their circulation is restricted to specified persons or classes of persons; or
 - (iv) Indecent unless viewed or used for a particular purpose; or
 - (v) Indecent: 15
- (c) To determine any question relating to the character of a video recording referred to it under **section 16** of this Act by a Court in any civil or criminal proceedings, including proceedings under **section 48** of this Act.

New

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14. Functions of Authority—The functions of the Authority shall be—

- (a) To classify any video recording submitted to it under **section 11 or section 15 or section 23** of this Act as—
 - (i) Not indecent; or 25
 - (ii) Indecent in the hands of persons under a specified age; or
 - (iii) Indecent unless its circulation is restricted to specified persons or classes of persons; or
 - (iv) Indecent unless viewed or used for a particular purpose; or 30
 - (v) Indecent:
- (b) To determine any question relating to the character of a video recording referred to it by a Court under **section 16 (1) or section 22 (3)** of this Act in any civil or criminal proceedings, including proceedings under **section 48** of this Act. 35

15. Submission of video recordings to Authority—(1) The Secretary may submit any video recording to the Authority for a decision *(as to)* on its classification.

(2) The Comptroller of Customs may submit any video recording seized pursuant to the Customs Act 1966 to the Authority for a decision *(as to)* on its classification.

Struck Out

(3) Any other person may, with the leave of the Minister obtained on application made in the prescribed form, submit any video recording to the Authority for a decision as to its classification.

New

(3) Any other person may submit any video recording to the Authority for a decision on its classification—

(a) With the leave of the Minister; or

(b) If such leave is refused, with the leave of the Authority,—obtained on application made on the form provided for that purpose by the Secretary.

(4) Every person who submits a video recording to the Authority under this section shall lodge a notice of submission *(in the prescribed form)* on the form provided for that purpose by the Secretary with the Authority and (except where the Secretary is the person making the submission) with the Secretary.

New

(4A) Every notice of submission lodged with the Authority under **subsection (4)** of this section shall be accompanied by the prescribed fee.

(5) If any video recording submitted under this section or under **section 11** of this Act is not adaptable to the equipment in the Authority's office, the Authority may require the person submitting the video recording to make it available for examination by the Authority at such place as the Authority directs and to pay all or any of the costs associated with the examination of the video recording at that place.

Cf. 1963, No. 22, s. 14

16. Court to refer questions of indecency to Authority—

(1) Except as provided by **subsections (2) and (3)** of this section and **sections 23 and 31** of this Act, where in any civil or criminal proceedings before a Court (including proceedings under **section 48** of this Act) a question arises (*as to*) whether any video recording— 5

- (a) Is indecent; or
- (b) Is indecent (*if viewed by*) in the hands of persons under a specified age; or
- (c) Is indecent unless its circulation is restricted to specified persons or classes of persons; or 10
- (d) Is indecent unless viewed or used for a particular purpose,—

the Court shall refer the question to the Authority for decision and the Authority shall have exclusive jurisdiction to determine 15 the question.

(2) Where in any civil or criminal proceedings the defendant admits that a video recording—

- (a) Is indecent; or
- (b) Is indecent in any of the circumstances referred to in 20 **paragraphs (b) to (d)** of **subsection (1)** of this section—

the Court may accept that admission and dispense with a reference to the Authority.

(3) Where any video recording has been referred to the Authority and the Authority or the Board of Review has 25 classified that video recording, the production in any proceedings of a notice of the decision published in the *Gazette* together with a certificate from the Authority to the effect that that decision is still in force shall be sufficient proof in any Court of the decision, and if that decision is conclusive proof 30 of the classification of that video recording under **section 22** of this Act, the Court shall dispense with a reference to the Authority in those proceedings.

Cf. 1963, No. 22, s.12

17. Examination of video recordings—

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Struck Out

(1) The Authority shall, as soon as practicable, examine every video recording submitted to it under **section 11** or **section 15** of this Act, or referred to it under **section 16** of this Act, to determine the 40 character of the video recording.

New

(1) The Authority shall, as soon as practicable, examine every video recording submitted to it under **section 11 or section 15 or section 23** of this Act, or referred to it under **section 16 (1) or section 22 (3)** of this Act, to determine the classification of the video recording.

(2) In determining the (*character*) classification of any video recording, the Authority shall consider the following matters:

- (a) The dominant effect of the video recording as a whole:
- (b) The extent to which the video recording has merit, value, or importance in relation to artistic, social, cultural, or other matters:
- (c) The persons, classes of persons, or the age groups of the persons, by whom the video recording is most likely to be viewed:

New

(ca) The extent and degree to which and the manner in which the video recording depicts, includes, or treats anti-social behaviour or offensive language or behaviour:

- (d) The extent and degree to which and the manner in which the video recording denigrates any particular class of the general public by reference to the colour, race, ethnic or national origins, sex, or religious beliefs of the members of that class:
- (e) The particular purpose for which the video recording is intended to be used.

New

(2A) In addition to the matters referred to in **subsection (2)** of this section, in determining the classification of any video recording, the Authority may have regard to the number of video recordings of a similar nature which are available for supply to the public, and the likely cumulative effect of the viewing by the public of those video recordings and the video recording being examined.

(3) In the case of a video recording that is intended to be viewed with an accompanying soundtrack, whether or not the soundtrack is an integral part of the video recording, the Authority, in examining the video recording, shall also take into consideration the content of the soundtrack and its relationship to the video recording.

(4) The Authority may make one copy of any video recording, and any accompanying soundtrack, it examines under this Part of this Act for the purpose of comparing that copy with any video recording that it subsequently examines.

(5) The making of a copy of a video recording under **subsection (4)** of this section shall not constitute an infringement of the copyright (if any) in that video recording. 5

Cf. 1963, No. 22, s. 11; 1983, No. 130, s. 13

18. Authority may consult other persons—(1) In examining any video recording for the purposes of this Part of this Act, the Authority may exhibit the video recording to any person whom the Authority considers may be able to assist the Authority in forming an opinion of the video recording on which to base the Authority's decision in respect of the video recording. 10 15

(2) Nothing in this Act relating to the exhibition of video recordings, and nothing in the Films Act 1983 relating to the exhibition of films, shall apply to the exhibition of a video recording by or at the request of the Authority for the purposes of **subsection (1)** of this section. 20

Cf. 1983, No. 130, s. 14

19. Classification of video recordings by Authority—(1) After examining a video recording, and having taken into account the matters referred to in **section 17 ((2) and (3))** of this Act, the Authority shall classify that video recording as— 25

- (a) Not indecent; or
- (b) Indecent (*if viewed by*) in the hands of persons under a specified age; or
- (c) Indecent unless its circulation is restricted to specified persons or classes of persons; or 30
- (d) Indecent unless viewed or used for a particular purpose; or
- (e) Indecent.

New

(2) For the purposes of this Act, the classification given to any video recording under **subsection (1)** of this section, or under **section 31 or section 31A** of this Act, shall be deemed to apply to every copy of that video recording which is identical in content with it. 35

New

19A. Excisions from and alterations to video recordings—(1) Notwithstanding anything in **section 19** of this Act, if, after examining a video recording submitted to it under **section 11 or section 15 or section 23** of this Act, and having taken into account the matters referred to in **section 17** of this Act, the Authority is of the opinion that it would classify the video recording differently according to whether any specified part or parts of the video recording is or are excised from or left in the video recording, it shall, before making a final determination in respect of the classification of the video recording, follow the procedure prescribed by the following subsections of this section.

(2) In any case to which **subsection (1)** of this section applies, the Authority shall notify the owner of the video recording of—

(a) The classification that the Authority would give to the video recording if any specified part or parts of the video recording were excised or altered to the satisfaction of the Authority; and

(b) The classification that the Authority would give to the video recording if the specified part or parts of the video recording were not excised or altered to the satisfaction of the Authority.

(3) If, in any case to which **subsection (2)** of this section applies, the owner of the video recording agrees to each such excision or alteration to the satisfaction of the Authority, the Authority shall classify that video recording in accordance with **section 19** of this Act as if each of the required excisions and alterations were made.

(4) If, in any case to which **subsection (2)** of this section applies, the owner of the video recording refuses or fails, within 28 days after the date of the Authority's notice, or within such further period as the Authority may allow, to agree to any such alteration or excision to the satisfaction of the Authority, the Authority shall classify the video recording in accordance with **section 19** of this Act.

(5) In any case to which **subsection (2)** of this section applies, if the owner of the video recording agrees to some but not all of the excisions or alterations, the Authority shall classify the video recording in accordance with **section 19** of this Act as if the excisions and alterations agreed to by the owner of the video recording had been made.

New

(6) In determining whether to exercise, or in exercising, the Authority's powers under this section in respect of any video recording, the Authority may consider the effect that any such excision or alteration may have on the continuity of the video recording or on its overall effect. 5

(7) Where, pursuant to **subsection (3) or subsection (5)** of this section, the Authority classifies any video recording as if certain excisions or alterations had been made to that video recording,— 10

(a) That classification shall apply in respect of that video recording only if those excisions or alterations are in fact made; and

(b) The Authority shall not direct the labelling body to issue a label in respect of that video recording unless the Authority is satisfied that those excisions or alterations have been made. 15

(8) **Subsections (1) to (7)** of this section, so far as they are applicable and with the necessary modifications, shall apply with respect to any sound track intended to accompany the viewing of any video recording being examined. 20

Cf. 1983, No. 130, ss. 15 (3), 16

20. Video recording referred by Court or submitted by labelling body—(1) Where the Authority has examined and classified any video recording referred to it pursuant to **(subsection (1) of section 16) section 16 (1) or section 22 (3)** of this Act, the Authority shall forward a report of its findings to the Court that referred the video recording. 25

(2) Where the Authority has examined and classified a video recording submitted to it pursuant to **section 11** of this Act, the Authority shall, subject to **subsection (4)** of this section and to **section 19A (7) (b)** of this Act, direct the labelling body to issue a label in respect of that video recording. 30

Struck Out

(3) Every direction under **subsection (2)** of this section shall specify, in respect of that video recording,— 35

(a) The rating to be assigned to that video recording; and

(b) Where appropriate, the description to be assigned to that video recording; and

(c) The classification of that video recording.

New

- (3) Where the Authority has examined and classified a video recording submitted to it pursuant to **section 15** or **section 23** of this Act, or referred to it under **section 16 (1)** or **section 22 (3)** of this Act, the Authority may, subject to **section 19A (7) (b)** of this Act, if the Authority is satisfied that the video recording is available for supply, or is intended to be made available for supply, direct the labelling body to issue a label in respect of that video recording.
- 10 (3A) Every direction under **subsection (2)** or **subsection (3)** of this section shall specify, in respect of the video recording,—
- (a) Where—
- 15 (i) The Authority has classified the video recording as not indecent, the rating to be assigned to that video recording; or
- (ii) The Authority has classified the video recording as a restricted video recording, the classification of that video recording; and
- 20 (b) Where appropriate, the description to be assigned to that video recording.

(4) The Authority shall not direct the labelling body to issue a label in respect of any video recording which the Authority has examined and classified as indecent.

New

- 25 (5) Where, under **subsection (3)** of this section, the Authority directs the labelling body to issue a label in respect of any video recording, any label previously issued in respect of that video recording by the labelling body, and any previous direction by the Authority to the labelling body to issue a label
- 30 in respect of that video recording, shall, for the purposes of this Act, be deemed to be cancelled.

- 20A. When decision on video recording referred by Court to take effect**—Where, in any civil or criminal proceedings, any video recording is referred to the Authority
- 35 by a Court pursuant to **section 16 (1)** or **section 22 (3)** of this Act, and the Authority makes a decision with respect to that video recording, that decision shall, subject to **section 31 (10)** of this Act, be of no effect in relation to those proceedings, until—

New

- (a) If no application for a review of that decision is lodged pursuant to **section 29** of this Act within the period of 30 days prescribed by **section 30 (1) (b)** of this Act, the expiry of that period; or 5
- (b) If any such application for a review is so lodged within that period, the Board of Review has made a determination in relation to that review.

20B. Decisions of Authority—Where the Authority makes a decision in respect of any video recording submitted to the Authority under **section 15** or **section 23** of this Act, the Authority shall give written notice of its decision, the reasons for its decision, the classification given to the video recording, and of the terms of any direction given by the Authority to the labelling body to issue a label in respect of the video recording, to the person who submitted that video recording to the Authority. 10
15

21. Decisions to be published in *Gazette*—Every decision and classification made by the Authority, or by the Board of Review, in respect of any video recording, and such particulars as may be prescribed, shall be published in the *Gazette*. 20

Cf. 1963, No. 22, s. 17

22. Decisions to be conclusive evidence—(1) Subject to subsection (2) of this section and to sections 23, 29, and 33 of this Act, a subsisting decision of the Authority or of the Board of Review in respect of any video recording shall be conclusive evidence in any proceedings that the video recording— 25

- (a) Is not indecent; or
- (b) Is indecent (*if viewed by*) in the hands of persons under a specified age; or 30
- (c) Is indecent unless its circulation is restricted to specified persons or classes of persons; or
- (d) Is indecent unless viewed or used for a particular purpose; or
- (e) Is indecent. 35

New

(2) Where any person is charged with an offence against this Act or any other Act, nothing in **subsection (1)** of this section shall prevent that person from challenging any decision of the Authority or the Board of Review in respect of any video recording if not less than 1 year has elapsed since that decision was published in the *Gazette* pursuant to **section 21** of this Act.

(3) Where **subsection (2)** of this section applies in respect of any decision of the Authority or the Board of Review, the Court shall, at the request of the person so charged, refer the decision to the Authority for reconsideration, or to the Board of Review where the decision to be reconsidered is a decision of the Board.

Cf. 1963, No. 22, s. 18

23. Reconsideration of video recordings—(1) Any person may, with the leave of the Minister or of the Authority, submit any video recording to the Authority for reconsideration of *(any decision made in respect of it if not less than 3 years have elapsed since the video recording was last considered by the Authority or the Board of Review)* the last decision of the Authority or the Board of Review in respect of that video recording if not less than 3 years have elapsed since that decision was published in the *Gazette* pursuant to **section 21** of this Act, and the Authority may alter or confirm the previous decision.

New

(1A) Any owner or maker of a video recording may submit that video recording to the Authority for reconsideration of the last decision of the Authority or the Board of Review in respect of that video recording if not less than 3 years have elapsed since that decision was published in the *Gazette* pursuant to **section 21** of this Act, and the Authority may alter or confirm the previous decision.

(2) Notwithstanding *(anything in **subsection (1)** of this section,)* that the period specified in **subsection (1)** or **subsection (1A)** of this section has not expired, any person may, with the leave of the Authority, submit any video recording to the Authority for reconsideration of any decision made in respect of it within the period referred to in that subsection if the video recording

has been substantially altered since that decision, or in special circumstances approved by the Authority and with its prior approval.

Cf. 1963, No. 22, s. 20

PART III

5

REVIEW OF VIDEO RECORDINGS BY BOARD OF REVIEW

24. Video Recordings Board of Review—(1) For the purposes of this Act there is hereby established a Board to be called the Video Recordings Board of Review.

(2) The Board of Review shall consist of— 10

(a) A Chairman, who shall be the person who holds office as Chairman of the Films Censorship Board of Review under section 25 (3) of the Films Act 1983; and

(b) Any **(2)** 4 other members of the Films Censorship Board of Review, selected from time to time by the Chairman for the purposes of conducting any review under this Part of this Act. 15

(3) Any member of the Board of Review who ceases to be a member of the Films Censorship Board of Review shall also cease to be a member of the Board of Review. 20

Cf. 1983, No. 130, s. 25

25. Appointment of deputies—(1) If the Chairman of the Board of Review is unable by reason of illness, absence from New Zealand, or other sufficient cause to attend any meeting of the Board of Review, or if the Chairman considers that it would not be proper or desirable for the Chairman to adjudicate on any specified matter, the Minister may appoint any other member of the Films Censorship Board of Review to act as Chairman of that meeting or for the purposes of adjudicating on that matter, upon and subject to such terms and conditions (if any) as the Minister may specify. 25 30

(2) Any person appointed under **subsection (1)** of this section shall, subject to any terms and conditions specified by the Minister, have all the powers of the Chairman for the purposes of that meeting or of adjudicating on that matter, including the power conferred by **section 24 (2) (b)** of this Act. 35

(3) If any member of the Board of Review (other than the Chairman) is unable by reason of illness, absence from New Zealand, or other sufficient cause to attend any meeting of the Board of Review, or if the Chairman or that member considers that it would not be proper or desirable for that member to adjudicate on any specified matter, the Chairman may appoint 40

any other member of the Films Censorship Board of Review to act in the place of that member at that meeting or for the purposes of adjudicating on that matter.

5 (4) No appointment of any person under this section and no acts done by that person while acting as the Chairman or as a member of the Board of Review, and no act done by the Board of Review while any person is acting as such, shall in any proceedings be questioned on the ground that the occasion of that person's appointment had not arisen or had ceased.

10 Cf. 1983, No. 130, s. 26

26. Function of Board of Review—The function of the Board of Review shall be to review any video recording referred to it under section 22 (3) of this Act or submitted to it in accordance with this Part of this Act.

15 Cf. 1983, No. 130, s. 27

27. Fees and travelling allowances—(1) The Board of Review is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

20 (2) There may be paid to the members of the Board of Review remuneration by way of fees and allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

28. Sittings of Board of Review—(1) The Board of Review shall sit for the conduct of its business at such times and places as it considers necessary.

(2) The Chairman shall preside at all sittings of the Board.

30 (3) The Chairman and *(one other member)* 2 other members of the Board shall constitute a quorum at any sitting of the Board, but the Chairman shall, as far as practicable, ensure that all members are present at any sitting at which, in the Chairman's opinion, difficult or important matters are to be considered.

35 (4) Every question before the Board shall be determined by the opinion of the majority of the members present at a sitting of the Board, and when the members are equally divided in their opinions that of the Chairman shall prevail.

(5) Subject to the provisions of this Act, the Board shall determine its own procedure.

40 Cf. 1983, No. 130, s. 29

29. Right of review—(1) ~~(Subject to subsection (2) of this section, every person who is)~~ Any of the persons specified in subsection (2) of this section who are dissatisfied with any decision of the Authority with respect to any video recording shall be entitled, on application, to have the video recording reviewed by the Board. 5

(2) ~~(A review may be sought at the instance of the following persons and no others)~~ The following persons may seek a review under subsection (1) of this section:

- (a) Where the video recording has been submitted to the Authority for examination and classification pursuant to **section 15 or section 23** of this Act, the person who submitted that video recording: 10
 - (b) Where the video recording has been referred to the Authority by a labelling body pursuant to **section 11** of this Act, the labelling body or the Secretary: 15
 - (c) Where the video recording has been referred to the Authority by a Court pursuant to ~~(section 16)~~ section 16 (1) or section 22 (3) of this Act, any party to the proceeding in respect of which that referral was made: 20
 - (d) In all cases, the owner or maker of the video recording. 30
- Cf. 1983, No. 130, s. 30

30. Procedure on review—(1) Every application for a review under **section 29** of this Act shall— 25

- (a) Be in the prescribed form; and
- (b) Subject to **subsection (2)** of this section, be lodged with the Secretary within 30 days after the decision of the Authority has been published in the *Gazette* pursuant to **section 21** of this Act; and 30
- (c) Be accompanied by the prescribed fee.

(2) Where the Secretary is the person making the application, the Secretary shall, within the time limit referred to in **subsection (1) (b)** of this section, send that application to the Chairman of the Board. 35

(3) The Secretary shall forthwith forward to the Chairman of the Board every application for review received by the Secretary under this section.

(4) On receipt of an application for review under this section, the Chairman of the Board shall arrange a sitting of the Board to conduct the review. 40

(5) Every review shall be conducted as soon as practicable.

Cf. 1983, No. 130, s. 31

31. Conduct of reviews—(1) Every review under this Part of this Act shall be by way of re-examination of the video recording by the Board of Review without regard to the Authority's decision.

5 (2) The Board of Review shall examine any video recording submitted to it under **section 29** of this Act to determine the classification of the video recording.

(3) In determining the classification of any video recording, the Board shall take into consideration the matters referred to in **subsections (2) and (3) of section 17** of this Act, and may take into account the matters referred to in **subsection (2A) of that section**.

10 (4) Except as provided in **subsections (5) to (7)** of this section, neither the applicant for review nor any other person shall have the right to appear before or to be heard by or to make submissions to the Board in respect of any review, but the Board shall have the same power to consult any person (including the Authority) as is conferred on the Authority by **section 18** of this Act.

15 (5) If the Board consults the person submitting the video recording for review, it shall notify the Authority that it has done so, and invite the Authority to make submissions to the Board in relation to that video recording.

(6) If the Board consults the Authority otherwise than on purely technical matters, it shall notify the person submitting the video recording for review, and, if that person is a party to the proceeding referred to in **section 29 (2) (c)** of this Act, every other party to that proceeding, that it has done so, and invite that person, and every other such party to make submissions to the Board in relation to the video recording.

20 (7) If the Board consults any person who is a party to the proceeding referred to in **section 29 (2) (c)** of this Act, it shall notify the Authority, and every other person who is a party to that proceeding, that it has done so, and invite the Authority and those persons to make submissions to the Board in relation to that video recording.

(8) After examining any video recording submitted to it for review, the Board shall—

25 (a) Classify the video recording in accordance with **section 19** of this Act; and

30 (b) Give written notice of its decision, and of its reasons therefor, to the applicant for review, the Authority, and, if the review is in respect of a video recording referred to the Authority by a Court under **(section 16) section 16 (1) or section 22 (3)** of this Act, to that Court; and

45

(c) Where the review is in respect of a video recording submitted to the Authority pursuant to **section 11** of this Act, order the Authority to direct the labelling body to issue a label in respect of that video recording pursuant to **section 20** of this Act. 5

(9) Notwithstanding anything in **subsection (8)** of this section, on any review of a video recording, the Board shall have the same powers as are conferred on the Authority by this Act.

New

(10) Where the Board of Review makes any determination in relation to any video recording submitted to it under **section 29** of this Act, the decision of the Authority in relation to that video recording, and the classification given to that video recording by the Authority, shall, for the purposes of this Act, be deemed to be cancelled. 10
15

Cf. 1983, No. 130, s. 33

31A. Reconsideration of decisions referred under section 22 (3)—Where, under **section 22 (3)** of this Act, a Court refers to the Board for reconsideration any decision of the Board in respect of any video recording, the Board shall carry out that reconsideration as if it were a review of that video recording under **section 31** of this Act, and the provisions of that section, so far as they are applicable and with the necessary modifications, shall apply with respect to any such reconsideration. 20
25

32. Board may state case for High Court—(1) The Board of Review may, on its own motion, state a case for the opinion of the High Court on any question of law arising in any matter before the Board.

(2) Every such case stated shall be heard and determined by the Administrative Division of the High Court in accordance with rules of Court. 30

Cf. 1983, No. 130, s. 36

PART IV

APPEALS

33. Appeal against decision of Board of Review on question of law—

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Struck Out

(1) Subject to **subsection (2)** of this section, where the Board of Review makes any determination in respect of any video recording submitted to it for review, every person who is dissatisfied with that determination as being erroneous in point of law may appeal to the High Court on that question of law.

(2) An appeal under **subsection (1)** of this section may be brought at the instance of the following persons, and no others:

(a) The person who sought the review by the Board of the video recording in respect of which the determination was made:

(b) The Minister:

(c) Where the review by the Board was sought pursuant to **section 29 (2) (c)** of this Act, any party to the proceeding referred to in that paragraph:

(d) The owner or maker of the video recording in respect of which the determination was made.

New

(1) Where the Board of Review makes any determination in respect of any video recording referred to it under **section 22 (3)** of this Act, or submitted to it under **section 29** of this Act, any of the persons specified in **subsection (2)** of this section who are dissatisfied with that determination as being erroneous in point of law may appeal to the High Court on that question of law.

(2) The following persons may appeal under **subsection (1)** of this section:

(a) The person who sought the review by the Board of the video recording in respect of which the determination was made:

(b) The Minister:

(c) Where the determination was made in respect of any video recording referred to the Board under **section 22 (3)** of this Act, any party to the proceedings in respect of which that referral was made:

New

- (d) Where the review by the Board was sought pursuant to **section 29 (2) (c)** of this Act, any party to the proceeding referred to in that paragraph:
- (e) The owner or maker of the video recording in respect of which the determination was made. 5

(3) Every appeal under this section shall be heard and determined by the Administrative Division of the High Court.

(4) Subject to **sections 34 to 42** of this Act, every appeal under this section shall be dealt with in accordance with rules of 10 Court.

Cf. 1983, No. 130, s. 37

34. Notice of appeal—(1) Every appeal under **section 33** of this Act shall be instituted by the appellant lodging a notice of appeal, within 1 month after the date of the determination, 15 with—

- (a) The Registrar of the High Court (*in*) at Wellington; and
 (b) The Secretary.

(2) Either before or immediately after the lodging of the notice of appeal, the appellant shall serve a copy of the notice of appeal, either personally or by post, on every other person who would have been entitled to appeal under **section 33** of this Act against the determination in respect of which the appeal has been brought. 20

(3) Service under **subsection (2)** of this section, if by post, shall be by registered letter and shall be deemed in the absence of proof to the contrary for the purposes of this section to be effected at the time when the letter would be delivered in the ordinary course of post. 25

(4) Every notice of appeal shall specify— 30

- (a) The determination or the part of the determination appealed from; and
 (b) The error of law alleged by the appellant; and
 (c) The question of law to be resolved; and
 (d) The grounds of the appeal, which grounds shall be specified with such reasonable particularity as to give full advice to both the Court and the other parties of the issues involved. 35

(5) The Secretary for Internal Affairs shall, as soon as is practicable after receiving a notice of appeal, send a copy of the whole of the determination appealed (*from to the Registrar of the High Court in Wellington*) against to the Registrar of the High Court at Wellington. 40

Cf. 1983, No. 130, s. 38

35. Right of other parties to appear and be heard on appeal—(1) If any of the persons on whom a copy of the notice of appeal is required to be served under **section 34 (2)** of this Act wishes to appear and be heard on the hearing of the appeal,
5 that person shall, within 10 days after the date of the service of that copy on that person, lodge with the Registrar of the High Court (*in*) at Wellington a notice of that person's intention to appear and be heard.

(2) If any such person gives a notice of intention to appear
10 and be heard, that party and the appellant shall be parties to the appeal and shall be entitled—

(a) To be served with every document thereafter filed or lodged with the Registrar relating to the appeal; and

(b) To receive a notice of the date set down for the hearing
15 of the appeal.

Cf. 1983, No. 130, s. 39

36. Orders relating to determination of appeals—

(1) Subject to **subsections (2) and (3)** of this section, the High Court
20 may, of its own motion or on the application of any party to the appeal, make all or any of the following orders:

(a) An order directing the Secretary for Internal Affairs to lodge with the Registrar of the High Court (*in*) at Wellington any document or other written material or any exhibit in the possession or custody of the
25 Secretary:

(b) An order directing the Secretary to lodge with the Registrar a report recording, in respect of any matter or issue that the Court may specify, any of the findings of fact of the Board of Review that are not
30 set out or fully set out in its determination:

(c) An order directing the Secretary to lodge with the Registrar a report setting out, in respect of any matter or issue that the Court may specify, any reasons or considerations of the Board of Review to which the
35 Board had regard but which are not set out in its determination.

(2) An application under **subsection (1)** of this section shall be made,—

(a) In the case of the appellant, within 1 month after the
40 date of the lodging of the notice of appeal; or

(b) In the case of any other party to the appeal, within 1 month after the date of the service on that party of a copy of the notice of appeal.

(3) The High Court may make an order under **subsection (1)** of this section only if it is satisfied that a proper determination of the point of law in issue so requires; and the order may be made subject to such conditions as the High Court thinks fit.

Cf. 1983, No. 130, s. 40

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37. Dismissal of appeal—The High Court may dismiss any appeal under **section 33** of this Act—

(a) If the appellant does not appear at the time appointed for the hearing of the appeal; or

(b) If the appellant does not prosecute the appeal with all due diligence and any other party applies to the Court for the dismissal of the appeal.

Cf. 1983, No. 130, s. 41

10

38. Appeal in respect of additional points of law—

(1) Where any party to an appeal under **section 33** of this Act other than the appellant wishes to contend at the hearing of the appeal that the determination appealed from is erroneous on a point of law other than those set out in the notice of appeal, that party shall, within 1 month after the date of the service on that party of a copy of the notice of appeal, lodge a notice to that effect with the Registrar of the High Court (*in*) at Wellington.

(2) The provisions of **subsections (2) to (4) of section 34, and sections 36, 37, 39, and 40** of this Act shall apply, with any necessary modifications, to any notice lodged under this section as if it were a notice of appeal.

Cf. 1983, No. 130, s. 42

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39. Extension of time—The High Court or a Judge thereof may, in its or that Judge's discretion, on the application of the appellant or intending appellant, or any other party, extend any time prescribed or allowed under any of the provisions of **sections 34 to 38** of this Act for the lodging of any notice, application, or other document.

Cf. 1983, No. 130, s. 43

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40. Date of hearing—When any party to the appeal notifies the Registrar of the High Court at Wellington—

(a) That the notice of appeal has been served in accordance with **section 34 (2)** of this Act; and

35

(b) Either—

(i) That no application has been lodged under **section 36** of this Act and that no order has been made under that section; or

5 (ii) That any application lodged under **section 36** of this Act has been heard and that any order under that section has been complied with,—

the appeal shall be, in all respects, ready for hearing and the Registrar shall arrange a date for the hearing as soon as is
10 practicable.

Cf. 1983, No. 130, s. 44

41. Imposition of interim restrictions on appeal—(1) Any party to the appeal may apply to the Court or a Judge for an interim restriction order in respect of the video recording that
15 is the subject of the appeal.

(2) Every interim restriction order made under this section shall come into force on the day on which it is made and, unless sooner revoked, shall remain in force until the appeal is finally determined by the High Court.

20 (3) While any interim restriction order is in force no person who has knowledge of the making of that order shall do any act or thing in relation to the video recording to which the order relates which would be an offence against any of the provisions of **paragraphs (a), (d), (e), (f), (h), or (i) of subsection (1) of section 43** of this Act or of **paragraphs (c), (d), or (e) of section 44** of
25 this Act if that video recording were an indecent video recording.

(4) Every interim restriction order shall be published in the *Gazette* and shall be advertised in such manner as the Court
30 or Judge shall direct, by the person on whose application the order is made. In addition that person shall as soon as reasonably practicable give express notice of the making of that order to such persons or classes of persons as the Court or Judge shall direct.

35 (5) Every person who is given express notice of the making of an interim restriction order shall, if that person has supplied the video recording to which the order relates to any other person for distribution, sale, or hire, give, where practicable and as soon as reasonably practicable, a notice of the making
40 of the order to that other person.

(6) The High Court or a Judge may on the application on notice of any person interested or of its own motion revoke an interim restriction order made under this section. Every order under this subsection which revokes an interim restriction

order shall be published in the *Gazette* and shall be advertised in such manner, and notified to such persons, as the Court or a Judge shall direct.

(7) Every person who acts in contravention of or fails to comply with **subsection (3) or subsection (5)** of this section commits an offence against this section and is liable on summary conviction,— 5

(a) In the case of an individual, to a fine not exceeding ~~(\$2,000)~~ **\$3,000**;

(b) In the case of a body corporate, to a fine not exceeding ~~(\$5,000)~~ **\$10,000**. 10

Cf. 1963, No. 22, ss.14A, 14B; 1972, No. 136, s. 3; 1977, No. 79, ss. 2, 3

42. Appeals against decisions of High Court—(1) If any party to the proceedings before the High Court under the foregoing provisions of this Part of this Act is dissatisfied with any final determination of the Court in respect of the appeal as being erroneous in point of law, that party may appeal to the Court of Appeal for the opinion of that Court on that question of law. 15 20

(2) Every such appeal shall be heard and determined in accordance with rules of Court.

Cf. 1983, No. 130, s. 46

PART V

OFFENCES

25

43. Offences of strict liability—(1) Every person commits an offence against this Act who—

(a) Sells, or delivers by way of hire, or offers for sale or hire, or has in that person's possession for sale or hire, an indecent video recording; or 30

(b) For the purposes of sale or distribution to any other person—

(i) Makes any indecent video recording; or

(ii) Makes a copy of any indecent video recording; 35

or

(c) For the purposes of sale to any other person, distributes any indecent video recording; or

(d) Exhibits an indecent video recording to any person in consideration or expectation of any payment, or otherwise for gain; or 40

(e) Sells, delivers, gives, exhibits, or offers to any person under the age of 20 years any video recording which is

- indecent in the hands of a person of the age of the person to whom it is sold, delivered, given, exhibited, or offered; or
- 5 (f) Sells, delivers, gives, exhibits, or offers any video recording which is indecent unless in the hands of particular persons or classes of persons or unless put to a particular use to any person who is not such a person or who is not a member of such a class of persons or to any person for a use other than that specified;
- 10 or
- (g) Delivers to any person any video recording with intent that it should be dealt with by that or any other person in such manner as to constitute an offence against this section or **section 44** of this Act; or
- 15 (h) Exhibits an indecent video recording in or within view of a public place; or
- (i) Sends to any person in expectation of payment or otherwise for gain or by way of advertisement any indecent video recording not expressly ordered or
- 20 solicited by that person.
- (2) Every person who commits an offence against **subsection (1)** of this section is liable on summary conviction to a fine not exceeding ~~(\$2,000)~~ \$3,000.
- (3) It shall be no defence to a charge under **subsection (1)** of
- 25 this section that the defendant had no knowledge or no reasonable cause to believe that the video recording to which the charge relates was of an indecent nature.
- (4) It shall be a defence to a charge under **subsection (1)** of this section to prove that the act of the defendant had no
- 30 immoral or mischievous tendency.

Cf. 1963, No. 22, s. 21; 1972, No. 136, s. 7; 1983, No. 27, s. 3 (1)

- 44. Offences involving knowledge**—(1) Every person commits an offence against this Act who—
- 35 (a) Does any act mentioned in **subsection (1) of section 43** of this Act knowing or having reasonable cause to believe that the video recording is indecent; or
- (b) Does any act mentioned in **paragraph (e), paragraph (f), or paragraph (g) of subsection (1) of section 43** of this Act
- 40 knowing or having reasonable cause to believe that the video recording is a restricted video recording; or

- (c) Exhibits an indecent video recording in or within view of a public place knowing or having reasonable cause to believe that the video recording is indecent; or
- (d) Delivers or offers an indecent video recording to any person in a public place knowing or having reasonable cause to believe that the video recording is indecent; or 5
- (e) Delivers or leaves on premises in the occupation of any other person an indecent video recording, knowing or having reasonable cause to believe that the video recording is indecent. 10
- (2) Every person who commits an offence against **subsection (1)** of this section is liable on summary conviction,—
- (a) In the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding ~~(\$2,000)~~ \$3,000; 15
- (b) In the case of a body corporate, to a fine not exceeding ~~(\$5,000)~~ \$10,000.
- (3) Every person charged with an offence against **paragraph (a) of subsection (1)** of this section may be convicted of an offence against **subsection (1) of section 43** of this Act as if that person had been charged under that subsection. 20
- (4) It is a defence to a charge under **subsection (1)** of this section to prove that the act of the defendant had no immoral or mischievous tendency. 25

Cf. 1963, No. 22, s. 22; 1972, No. 136, s. 8

45. Exhibiting parts of a video recording—A person may be convicted of exhibiting an indecent video recording if what is exhibited is in all the circumstances indecent, notwithstanding that it is a part only of a video recording that is not indecent or is a restricted video recording. 30

Cf. 1963, No. 22, s. 22A; 1972, No. 136, s. 10

New

45A. Dealing for purposes of Films Act 1983 not an offence—Nothing in **section 43** or **section 44** of this Act shall apply to anything done in relation to any video recording (being a video recording in respect of which a certificate of approval is in force under the Films Act 1983) for any purpose related to the exhibition of that video recording in accordance with the Films Act 1983. 35
40

46. Vicarious liability—When an indecent video recording is sold or hired, or offered for sale or hire, or exhibited contrary to the provisions of this Act, by an employee or agent in the course of that person's employment or agency, whether with
5 or without the authority of that person's employer or principal, the video recording shall, for the purposes of this Act, be conclusively deemed to have been so sold, hired, offered, or exhibited, as the case may be, both by the employee or agent,
10 and by that person's employer or principal, and each of those persons shall be severally guilty of an offence against this Act accordingly.

Cf. 1963, No. 22, s. 23; 1972, No. 136, s. 9

47. Evidence of making, reproduction, distribution, sale, or hire of video recording—When, in the case of any
15 prosecution for an offence against this Act, the video recording which is the subject of the prosecution contains or bears a statement that it was made, reproduced, distributed, sold, or hired by any person, that statement may be received as sufficient evidence of the fact so stated unless the contrary is
20 proved.

Cf. 1963, No. 22, s. 24

48. Search warrants—(1) Any District Court Judge or Justice, or any Registrar (not being a constable), who, on an application in writing made on oath, is satisfied that there is reasonable
25 ground for believing that any indecent video recording is kept in any building, aircraft, ship, carriage, vehicle, box, receptacle, premises, or place for the purpose of being so dealt with as to constitute an offence against **section 43** or **section 44** of this Act, may issue a search warrant in the prescribed form, and
30 the provisions of subsections (2) to (7) of section 198 of the Summary Proceedings Act 1957 shall apply as if the application were made and the warrant issued under that section.

(2) Where any video recording is seized under a search warrant a summons shall be issued calling upon the occupier
35 of the place searched to appear before a District Court presided over by a District Court Judge to show cause why it should not be destroyed.

(3) If, on the hearing of the summons, the Court is satisfied, after reference to the Authority if necessary, that any of the
40 video recordings so seized are indecent, and have been kept for the purpose of being so dealt with as to constitute an offence against **section 43** or **section 44** of this Act, it may order that those recordings (except such of them as it considers necessary

to be preserved as evidence in any further proceedings) be destroyed at the expiration of 14 days from the making of the order, and the recordings shall in the meantime be impounded.

(4) If the District Court Judge is satisfied, after reference to the Authority if necessary, that any video recordings so seized are not indecent, or have not been kept for the purpose mentioned in **subsection (1)** and **subsection (3)** of this section, the Judge shall forthwith direct them to be restored to the occupier of the place in which they were seized. 5

(5) Any person aggrieved by an order made under this section for the destruction of any video recordings may (whatever the amount involved) appeal therefrom in the manner provided by the Summary Proceedings Act 1957, and until such appeal is determined or abandoned the order shall be suspended and shall not be carried into effect. 10 15

(6) There shall be no appeal to the High Court, other than pursuant to **section 33** of this Act, against any decision of the Authority or the Board of Review in respect of any video recording.

(7) No action shall lie against any person for any act done in good faith in pursuance or intended pursuance of this section or of any warrant or order issued or made in pursuance or intended pursuance thereof. 20

(8) Subject to the provisions of this section, all proceedings under this section shall be in accordance with the Summary Proceedings Act 1957, and that Act shall apply thereto accordingly. 25

Cf. 1963, No. 22, s. 25

49. Disposal following conviction—(1) Where any person is convicted of an offence against this Act, the convicting Court may, if it is satisfied after reference to the Authority if necessary, that any video recording the subject of the prosecution is indecent, order that the video recording be destroyed at the expiration of 14 days from the making of the order, and the recording shall in the meantime be impounded. 30 35

(2) It shall not be necessary to issue a summons under **section 48 (2)** of this Act in any case where all the video recordings seized under a search warrant are indecent and are the subject of a prosecution in which the occupier of the place searched is the person or one of the persons convicted. 40

(3) The making of an order under **subsection (1)** of this section shall be postponed if a summons is required to be issued under **section 48** of this Act in respect of the video recording and that summons has not been issued and disposed of.

(4) Before making an order under **subsection (1)** of this section the Court shall give the person convicted and any other person who, in the opinion of the Court, would be directly affected by the destruction of the video recording which was the subject
5 of the prosecution an opportunity of being heard.

(5) If the Court is satisfied that the video recording should be restored to a person other than the person convicted it may so direct.

(6) **Subsections (5) to (8)** of **section 48** of this Act shall apply for
10 the purposes of this section with such modifications as are necessary.

Cf. 1963, No. 22, s. 25A; 1972, No. 136, s. 11

50. Relief from contracts—Notwithstanding anything in any contract, whether entered into before or after the
15 commencement of this Act, no person shall be liable for breach of contract by reason only of that person rejecting any video recording delivered to that person or of that person refusing to accept delivery of or deal in any video recording in any case where—

20 (a) That person reasonably and in good faith believes that that person's acceptance of delivery of or that person's possession of or dealing in that video recording may render that person guilty of an offence against this Act; and

25 (b) That person gives to the person from whom that person received or is to receive delivery of the video recording notice in writing of that person's rejection or refusal thereof and of the reason therefor as soon as practicable after that person becomes aware of the
30 nature of the video recording in question.

Cf. 1963, No. 22, s. 26

51. Directors and officers of bodies corporate—Where any body corporate is convicted of an offence against this Act, every director and every officer concerned in the management
35 of the body corporate shall be guilty of the offence where it is proved that the act which constituted the offence took place with that person's knowledge, authority, permission, or consent.

Cf. 1963, No. 22, s. 28

40 **52. Extending time for taking prosecutions**—Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information in respect of any offence

against this Act may be laid at any time within 2 years after the time when the matter of the information arose.

Cf. 1963, No. 22, s. 28A; 1972, No. 136, s. 13

53. Leave of the Attorney-General to prosecute—(1) No prosecution for an offence against this Act (except an offence against **section 9** or **section 10** or **section 58** or **section 59** of this Act) shall be commenced except with the leave of the Attorney-General. 5

(2) The Attorney-General may delegate the powers of the Attorney-General under **subsection (1)** of this section to the Commissioner of Police in respect of offences concerning any particular class of video recordings. 10

(3) The Commissioner of Police, in purporting to act under any delegation under **subsection (2)** of this section shall, in the absence of proof to the contrary, be presumed to be acting within the terms of the delegation. 15

(4) Any such delegation may be at any time revoked by the Attorney-General, in whole or in part, but that revocation shall not affect in any way anything done under the delegated authority. 20

(5) No such delegation shall prevent the exercise by the Attorney-General of any power under **subsection (1)** of this section.

Cf. 1963, No. 22, s. 29

54. Delegation of powers by Commissioner of Police— (1) The Commissioner of Police may from time to time, by writing under the Commissioner's hand, either generally or particularly, delegate to such member or members of the Police, of a rank not less than Inspector, as the Commissioner thinks fit, all or any of the powers delegated to the Commissioner under **section 53** of this Act. 25 30

(2) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary. 35

(3) Subject to **subsection (1)** of this section, any delegation under this section may be made to a specified member of the Police or to members of the Police of a specified rank or class, or may be made to the holder or holders for the time being of a specified office or class of offices. 40

(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner of Police.

(5) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Commissioner of Police by whom it was made may have ceased to hold office, and shall continue to have effect as if made by
5 the successor in office of that Commissioner.

(6) The revocation of any such delegation shall not affect in any way anything done under the delegated authority.

Cf. 1963, No. 22, s. 30

PART VI

10

MISCELLANEOUS PROVISIONS

55. Power to exempt—(1) Where the Minister is satisfied that any video recording which has been classified as indecent or which has been subject to restrictions under this Act should be made available to a limited class of persons or to a particular
15 person for educational, professional, scientific, literary, artistic, or technical purposes, the Minister may by writing under the Minister's hand exempt that class of persons or that person from the provisions of this Act in respect of that video recording for such period and on such conditions as the Minister thinks
20 fit.

(2) In any prosecution for an offence against this Act the burden of proving that the defendant was exempted under this section and was acting in accordance with the terms of the exemption shall be on the defendant.

25 Cf. 1963, No. 22, s. 31

56. Delegation of powers by Secretary—(1) The Secretary may from time to time, by writing under the Secretary's hand, either generally or particularly, delegate to such officer or officers of the Department of Internal Affairs as the Secretary
30 thinks fit all or any of the powers and functions exercisable by the Secretary under this Act or under any regulations made under this Act, other than the power of delegation conferred by this section.

(2) Subject to any general or special directions given or
35 conditions attached by the Secretary, the officer to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on the officer directly by this section and not by delegation.

40 (3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

(4) Any delegation under this section may be made to a specified officer or to officers of a specified class, or may be made to the holder for the time being of a specified office or class of office.

(5) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power or function by the Secretary. 5

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary. 10

Cf. 1983, No. 130, s. 66

57. Inspectors of Video Recording Outlets—(1) The Secretary may from time to time appoint such number of persons to be Inspectors of Video Recording Outlets as may be required for the purposes of this Act. 15

(2) Notwithstanding subsection (1) of this section, every Inspector of Cinemas appointed under section 67 of the Films Act 1983 and every constable shall be deemed to be an Inspector of Video Recording Outlets for the purposes of this Act. 20

(3) Every Inspector appointed under subsection (1) of this section shall be paid, from the Consolidated Account out of money appropriated by Parliament for the purpose, such remuneration and allowances as may from time to time be determined by the State Services Commission. 25

(4) No person shall be deemed to be employed in the Public Service for the purposes of the State Services Act 1962, or in the Government service for the purposes of the Government Superannuation Fund Act 1956, merely because that person holds office as an Inspector. 30

(5) Every Inspector shall be subject to the jurisdiction of the Ombudsmen under the Ombudsmen Act 1975. 35

Cf. 1983, No. 130, s. 67

58. Authority to act as Inspector—(1) The Secretary shall issue to every person appointed as an Inspector of Video Recording Outlets under section 57 (1) of this Act a warrant authorising that person to exercise the powers conferred on Inspectors under section 59 of this Act. 40

(2) Every such warrant shall contain—

- (a) A reference to this section; and
- (b) The full name of the Inspector; and

- (c) A reference to the powers set out in **section 59** of this Act.
- (3) The production by an Inspector of—
- (a) A warrant issued under this section; or
- 5 (b) Due evidence of that person's appointment as an Inspector
of Cinemas under section 67 of the Films Act 1983;
or
- (c) Any evidence that that person is a constable,—
shall, until the contrary is proved, be sufficient authority for
any such Inspector to do anything authorised by this Part of
10 this Act.
- (4) Every person appointed under **section 57 (1)** of this Act
who ceases to hold office as an Inspector shall surrender to
the Secretary the warrant issued to that person under
subsection (1) of this section.
- 15 (5) Every person commits an offence and is liable on
summary conviction to a fine not exceeding \$500 who fails to
comply with **subsection (4)** of this section.

Cf. 1983, No. 130, s. 68

- 59. Powers of Inspectors**—(1) Every Inspector of Video
20 Recording Outlets may enter upon any premises (not being a
private residence) in which video recordings are offered for
sale or hire for the purpose of ensuring that the provisions of
Part I of this Act, and of any regulations made under this Act,
are being complied with.
- 25 (2) An Inspector shall not enter upon any such premises at
any time when those premises are not open to the public,
unless accompanied by or with the knowledge of the owner
or occupier of the place into which entry is intended, or the
representative or agent or employee of that person.
- 30 (3) Every Inspector shall, when entering upon any of the said
premises, and at any other time when required to do so by
the owner or occupier of the place or by that person's
representative, agent, or employee, produce the warrant issued
to the Inspector under (~~section 57~~) **section 58** of this Act, or in
35 the case of an Inspector of Cinemas or a constable, the written
authority issued under section 68 (1) of the Films Act 1983, or
evidence that that person is a constable, as the case may
require.
- (4) In the exercise of the powers conferred by **subsection (1)**
40 of this section, an Inspector may—

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- (a) Require the production for inspection by that Inspector of any document relating to the classification of a video recording issued under or required by this Act; and

5

New

- (a) Require the production for inspection by that Inspector of any document which relates to the labelling or classification of any video recording and which is issued under or required by this Act, and may take copies of or extracts from any such document; and

10

- (b) Demand any information that the Inspector may reasonably require for the purposes of the inspection.

(5) No person shall be required to answer any question by an Inspector if the answer would or could tend to incriminate that person, and that person shall be informed of that right before an Inspector exercises the power to demand information conferred by this section.

15

(6) Without limiting the foregoing provisions of this section, every Inspector who discovers any person offering for sale or hire any video recording—

20

- (a) To which the label required by **section 5** of this Act is not affixed; or

- (b) Which is affixed with a label which the Inspector has reasonable grounds to believe is not the label that was issued under this Act in respect of that video recording; or

25

- (c) Which is affixed with a label and the Inspector has reasonable grounds to believe that no label has been issued in respect of that video recording—

30

may seize that video recording and deliver it to the Secretary.

(7) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who obstructs an Inspector in the performance of that Inspector's duties under this Act or who fails to comply with any requirement of an Inspector under **subsection (4)** of this section, otherwise than on the ground set out in **subsection (5)** of this section.

35

Cf. 1983, No. 130, s. 69

Struck Out

60. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- 5 (a) Prescribing the form and content of labels to be used for the purposes of this Act, and the manner in which those labels are to be affixed to video recordings and the spools, cases, or other containers in or on which video recordings are kept:
- 10 (b) Prescribing the procedures relating to the examination of video recordings for the purposes of this Act:
- (c) Prescribing the kinds of ratings to be assigned to video recordings under this Act:
- (d) Prescribing the fees to be paid for the submission of video recordings to the Authority under this Act:
- 15 (e) Prescribing the forms required for the purposes of this Act:
- (f) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.
- 20

New

60. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- 25 (a) Prescribing the procedures relating to examination of video recordings by the labelling body and the issue of labels in respect of such video recordings:
- (b) Prescribing the kinds of ratings to be assigned to video recordings under this Act:
- 30 (c) Prescribing the kinds of ratings that may be assigned to video recordings by the labelling body, and the kinds of ratings that may be assigned to video recordings only by the Video Recordings Authority or the Board of Review:
- 35 (d) Prescribing the form and content of labels to be used for the purposes of this Act, and the manner in which those labels are to be affixed to video recordings and to—
- 40 (i) The cassettes, cases, or other containers in or on which video recordings are kept; and
- (ii) Any posters or other advertising material used or intended for use in relation to the advertising of any video recording to the public:

New

- (e) Requiring the display, on premises where video recordings are supplied or offered for supply to members of the public, of posters and other material explaining the ratings assigned to video recordings under this Act: 5
- (f) Prescribing the fees to be paid in respect of—
- (i) The submission of any video recording to the Authority under **section 11 or section 15 or section 23** of this Act; and
- (ii) Any application for a review of any video recording under **section 29 (1)** of this Act,— 10
and providing for the exemption or partial exemption of any person or class of persons from liability to pay any such fees:
- (g) Prescribing the forms required for the purposes of this Act: 15
- (h) Prescribing offences in respect of the contravention of or non-compliance with any provision of any regulations made under this section, and prescribing fines, not exceeding \$2,000, that may, on summary conviction, be imposed in respect of any such offence: 20
- (i) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

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61. Consequential amendments—(1) Section 2 of the Indecent Publications Act 1963 is hereby amended by repealing the definitions of the terms “document” and “film” (as substituted by section 2(1) of the Indecent Publications Amendment Act 1983), and substituting the following definitions: 30

“ ‘Document’ means any book, newspaper, periodical, picture, film, photograph, photographic negative, photographic plate, or photographic slide, and any print or writing, and any paper or other thing which has printed or impressed upon it or otherwise shown thereon any word, statement, sign, picture, or representation; but does not include— 35

“(a) Any film in respect of which a certificate of approval is in force under the Films Act 1983; or 40

“(b) Any poster or other advertising material that has been approved by the Chief Censor under or pursuant to the provisions of that Act; or

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“(c) Any video recording within the meaning of the Video Recordings Act 1985:

“ ‘Film’ means a photographic film; and includes—

- 5 “(a) A cinematograph film; and
 “(b) Any other material record of visual images (other than a video recording within the meaning of the Video Recordings Act 1985) that is capable of being used for the subsequent display of those images:”.

10 (2) Section 21 (1) of the Indecent Publications Act 1963 is hereby amended by repealing paragraph (ba) (as substituted by section 3 of the Indecent Publications Amendment Act 1983), and substituting the following paragraph:

15 “(ba) For the purposes of sale or distribution to any other person, publishes any indecent document or sound recording; or”.

 (3) The First Schedule to the Customs Act 1966 is hereby amended by inserting, after the item relating to indecent documents within the meaning of the Indecent Publications Act 1963, the following item:

 “All video recordings within the meaning of the Video Recordings Act 1985 that are indecent within the meaning of that Act.”

25 (4) Section 2 of the Indecent Publications Amendment Act 1983 is hereby consequentially repealed.

New

61. Consequential amendments—(1) Section 124 of the Crimes Act 1961 (as amended by section 3 of the Crimes Act Amendment Act 1966, and by section 76 (1) of the Films Act 1983) is hereby amended by adding the following subsection:

30 “(7) Nothing in this section shall apply to any video recording within the meaning of the Video Recordings Act 1986, whether the video recording is indecent within the meaning of that Act or not.”

 (2) Section 2 of the Indecent Publications Act 1963 is hereby amended by repealing the definitions of the terms “document” and “film” (as substituted by section 2 (1) of the Indecent Publications Amendment Act 1983), and substituting the following definitions:

40 “ ‘Document’ means any book, newspaper, periodical, picture, film, photograph, photographic negative, photographic plate, or photographic slide, and any print or writing, and any paper or other thing which

New

has printed or impressed upon it or otherwise shown thereon any word, statement, sign, picture, or representation; but does not include—

“(a) Any film in respect of which a certificate of approval is in force under the Films Act 1983; or

“(b) Any poster or other advertising material that has been approved by the Chief Censor under or pursuant to the provisions of that Act; or

“(c) Any video recording within the meaning of the Video Recordings Act 1986:

“ ‘Film’ means a photographic film; and includes—

“(a) A cinematograph film; and

“(b) Any other material record of visual images (other than a video recording within the meaning of the Video Recordings Act 1986) that is capable of being used for the subsequent display of those images.”

(3) Section 21 (1) of the Indecent Publications Act 1963 is hereby amended by repealing paragraph (ba) (as substituted by section 3 of the Indecent Publications Amendment Act 1983), and substituting the following paragraph:

“(ba) For the purposes of sale or distribution to any other person, publishes any indecent document or sound recording; or”

(4) The First Schedule to the Customs Act 1966 is hereby amended by inserting, after the item relating to indecent documents within the meaning of the Indecent Publications Act 1963, the following item:

“All video recordings within the meaning of the Video Recordings Act 1986 that are indecent within the meaning of that Act in the hands of all persons and for all purposes.”

(5) The following enactments are hereby consequentially repealed, namely:

(a) Section 2 of the Indecent Publications Amendment Act 1983:

(b) Section 76 (1) of the Films Act 1983.