

*These notes refer to the Video Recordings Act 2010 (c.1)  
which received Royal Assent on 21st January 2010*

# **VIDEO RECORDINGS ACT 2010**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Video Recordings Act 2010 which received Royal Assent on 21st January 2010. They have been prepared by the Department for Culture, Media and Sport in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### **BACKGROUND AND SUMMARY**

3. The purpose of the Act is to secure the enforceability of provisions of the Video Recordings Act 1984 (c.39) (“the 1984 Act”). Certain provisions of the 1984 Act should have been notified in draft to the European Commission before that Act was passed in 1984 in accordance with Council Directive 83/189/EEC<sup>1</sup> of 28 March 1983 (“the Technical Standards Directive”). Failure to notify provisions in accordance with the Technical Standards Directive has the effect that the provisions are not enforceable against individuals<sup>2</sup>.

4. The Technical Standards Directive requires that, where a member state wishes to impose a technical regulation, for example by making legislation relating to compulsory requirements as to the size, packaging or labelling of a product, it must send a draft of the regulation to the European Commission and other member states and, except in urgent cases, wait for a period of three months before adopting the regulation. The purpose of this is to enable the European Commission and other member states to comment on the draft technical requirements if they are concerned that the requirements will act as a barrier to Community trade. Depending on the nature of any comments made by other member states or the European Commission, the waiting period of three months may be extended to a period of up to 18 months.

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<sup>1</sup> As amended by Council Directive 88/182/EEC of 22 March 1988 and by Directive 94/10/EEC of the European Parliament and of the Council of 23 March 1994, codified by Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998, and amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998.

<sup>2</sup> Paragraph 54, *CIA Security International SA v Signalson SA and Securital SPRL*, ECJ Case C-194/94.

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5. Sections 1 to 17, 19, 21 and 22 of the 1984 Act were notified to the European Commission on 10 September 2009. The three month waiting period required by the Technical Standards Directive expired on 11 December 2009. The Act provides for those provisions to cease to be in force and then immediately to come into force again.

6. Copies of the provisions of the 1984 Act notified to the European Commission under the Technical Standards Directive may be obtained from the DCMS website - [http://www.culture.gov.uk/reference\\_library/publications/6517.aspx](http://www.culture.gov.uk/reference_library/publications/6517.aspx)

7. The Schedule to the Act contains transitional provisions that are intended to secure that, apart from making the provisions of the 1984 Act enforceable, the repeal and revival of the provisions does not change their effect or the effect of other enactments, instruments or documents that refer to them.

## **TERRITORIAL EXTENT AND APPLICATION**

8. The Act extends to England and Wales, Scotland and Northern Ireland.

## **COMMENTARY ON SECTIONS**

### **Section 1: Repeal and revival of provisions of the Video Recordings Act 1984**

9. Subsection (1) provides for sections 1 to 17, 19, 21 and 22 of the 1984 Act to cease to be in force and, having been notified to the European Commission in accordance with the Technical Standards Directive, immediately to come into force again.

10. Sections 1 to 17, 19, 21 and 22 of the 1984 Act, which together make up the main provisions of that Act, provide for a system of age classification for video works, such as a film stored on DVD, in the UK. The purpose is to prohibit the supply of video works, particularly those with sexual or violent content, to persons below certain ages, and to prohibit generally the supply of unclassified video works. Sections 1 to 3 of the 1984 Act define key terms and exemptions. Sections 4 to 6 of the 1984 Act relate to the role of the classification authority (the British Board of Film Classification (“BBFC”) has been designated in this role). Sections 7 and 8 of the 1984 Act relate to classification certificates and labelling requirements. Sections 9 to 15 of the 1984 Act contain offences relating to the supply of video recordings in breach of classification and labelling requirements. Section 16 of the 1984 Act relates to offences by corporate bodies. Section 16A of the 1984 Act provides for enforcement by local weights and measures authorities, and sections 16B to 16D of the 1984 Act provide for the extension of jurisdiction of magistrates’ courts, sheriffs and magistrates’ courts in Northern Ireland in linked cases. Section 17 of the 1984 Act provides for powers of entry, search and seizure in relation to suspected offences under the Act. Section 19 of the 1984 Act provides for evidence relating to classification of a video work to be given by certificate. Section 21 of the 1984 Act provides for forfeiture of video recordings following conviction under the Act. Sections 18 and 20 of the 1984 Act have been repealed by earlier legislation.

### **Schedule: Transitional Provision**

11. Paragraph 2(1) makes it clear that references to the 1984 Act in enactments, instruments and documents will not be affected by the repeal and revival of the provisions of the 1984 Act by the Act. For example, the Criminal Justice and Police Act 2001 (c.16) (sections 50 to 55 and Schedule 1) refers to section 17(2) of the 1984 Act (in order to extend and modify the power of search and seizure under that section). Paragraph 2(1) ensures that this reference remains unaffected by the repeal and revival.

12. Paragraph 2(2)(a) provides that existing references to Acts passed before a particular date, or in a particular Session, that include the 1984 Act will not be affected by the repeal and revival of the 1984 Act effected by the Act. For example, sections 281 and 282 of the Criminal Justice Act 2003 (c.44) extend the maximum term of imprisonment on summary conviction for certain offences in ‘relevant enactments’. ‘Relevant enactments’ are defined as Acts passed, or subordinate legislation made, before or in the same Session as the Criminal Justice Act 2003. This includes the 1984 Act. Paragraph 2(2)(a) ensures that, in this example, the repeal and revival of the 1984 Act does not affect its being regarded as a ‘relevant enactment’.

13. Paragraph 2(2)(b) makes similar provision in relation to existing powers that are exercisable in relation to Acts passed before a particular date, or in a particular Session. For example, section 9(7) of the Administration of Justice Act 1985 (c.61) gives the Lord Chancellor the power to modify Acts passed before or in the same Session as the Legal Services Act 2007 (c.29). Section 19(5) of the 1984 Act has been modified by this power. Paragraph 2(2)(b) ensures that this type of modification is not affected by the repeal and revival of the 1984 Act.

14. Paragraph 3 makes it clear that the Act does not affect the validity of certain things done under provisions of the 1984 Act prior to their repeal and revival. For example, the BBFC will continue to be the designated authority for the purposes of the 1984 Act and classification certificates issued by the BBFC will continue to be valid. Paragraph 3(3) provides that the Act does not affect the date on which any of those things are treated as having been done.

15. Paragraph 4 relates to sections 4, 4A and 4B of the 1984 Act. Section 4 of the 1984 Act allows the Secretary of State to designate an authority as the classification authority. Section 4A requires the classification authority to have special regard to certain criteria in classifying a video work and section 4B allows the Secretary of State to authorise the classification authority to review any earlier determination in the light of the criteria introduced by section 4A. Section 4A first came into force on 3 November 1994. The purpose of paragraph 4 is to confirm that the reference in section 4B to the date on which section 4A came into force is unaffected by the repeal and revival of the 1984 Act.

16. Paragraph 5 confirms that the offences under sections 9 to 14 of the 1984 Act will continue to be “relevant offences” for the purposes of the Regulatory Enforcement and Sanctions Act 2008 (c.13). The Regulatory Enforcement and Sanctions Act 2008 makes

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provision for civil sanctions to be imposed for “relevant offences”, being offences that were in force immediately before the Regulatory Enforcement and Sanctions Act 2008 was passed.

## COMMENCEMENT DATES

17. The Act came into force on Royal Assent.

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

<b>Stage</b>	<b>Date</b>	<b>Hansard Reference</b>
<b>House of Commons</b>		
Introduction	15 December 2009	Vol. 502 Col 834
Allocation of Time	6 January 2010	Vol. 503 Col 174
Second Reading	6 January 2010	Vol. 503 Col 181
Committee and Report	6 January 2010	Vol. 503 Col 210
Third Reading	6 January 2010	Vol. 503 Col 211
<b>House of Lords</b>		
Introduction	7 January 2010	Vol. 716 Col 208
Second Reading	18 January 2010	Vol. 716 Col 776
Committee and Report	18 January 2010	Vol. 716 Col 868
Third Reading	20 January 2010	Vol. 716 Col 996

Royal Assent – 21 January 2010	House of Lords Hansard Vol. 716 Col 1108  House of Commons Hansard Vol. 504 Col 460
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