

EXPLANATORY MEMORANDUM TO

THE VIDEO RECORDINGS (LABELLING) (AMENDMENT) REGULATIONS 2020

2020 No. 187

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Digital, Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Video Recordings (Labelling) Regulations 2012 (“the 2012 Regulations”) in order to change the requirements for certain age rating symbols, which must be shown on video recordings and other products containing video works for which a classification certificate has been issued by the video works authority.
- 2.2 The intention of this instrument is to refresh the statutory requirements as to age-rating symbols, by simplifying the way they appear visually, making them more logical and easier to read in order to improve consumer decision-making and increase public protection from inappropriate material.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The current legislative requirements, contained in the 2012 Regulations, set out, among other things, what shapes, colours and sizes must be used on certain classification symbols which must be shown on video recordings and other products containing video works for which a classification certificate has been issued by the video works authority.

- 6.2 The BBFC is the authority designated by the Secretary of State for Digital, Culture, Media and Sport for classifying video works (other than video games) under the Video Recordings Act 1984 (“the VRA 1984”).
- 6.3 The purpose of this instrument is to amend the age rating symbols for physical media (e.g. DVDs, BluRays), which requires changes to the current requirements under the 2012 Regulations. The powers conferred under sections 8 and 22A of the VRA 1984 state that the Secretary of State may “*in relation to video works in respect of which classification certificates have been issued, by regulations require such indication ... to be shown ... on any video recording containing the video work in respect of which the certificate was issued or any spool, case or other thing on or in which such a video recording is kept.*”
- 6.4 This instrument makes a number of changes to the 2012 Regulations. This instrument removes the requirement to include the word “restricted” in classification symbols relating to video work which may only be supplied in a licensed sex shop and reduces the minimum height of the classification symbol required to be shown on video recordings or any spool, case or other thing on or in which the recording is kept and other products containing video works for which a classification certificate has been issued by the video works authority (other than double sided discs) from 5 to 4 millimetres.
- 6.5 The instrument also amends the 2012 Regulations by replacing the single under 18 age classification symbol, where the relevant age limit was required to be displayed in red on a white background, with two new symbols; one for the rating from ages 15 but under 18, and the other for age ratings below 15, which must be white and set on pink and orange backgrounds, respectively.
- 6.6 The instrument also provides for a six month transitional period during which products may continue to be labelled or marked in accordance with the existing requirements under the 2012 Regulations, and also provides that for products first placed on the market before the coming into force of these Regulations, the requirements under the 2012 Regulations will continue to apply.
- 6.7 Video games labelling requirements remain unchanged.
- 6.8 These Regulations have been notified in draft to the European Commission in accordance with Directive (EU) 2015/1535.

7. Policy background

What is being done and why?

- 7.1 In the UK we use age ratings and associated symbols to enable people to make safe, informed decisions about the films they choose for themselves and their families. While DVD manufacturers must comply with the 2012 Regulations, it is not compulsory that they adopt the symbols designed by the BBFC, though all generally do in practice. The intention of this instrument is to amend the statutory requirements as to age-rating symbols, by simplifying the way they appear visually and to make them clearer in order to improve consumer decision-making and increase public protection from inappropriate material.
- 7.2 The symbols took their current form in 1984, and were last refreshed 16 years ago, when they were re-designed with use on large cinema screens and on high-resolution print packaging (e.g. VHS, DVD) in mind. However, the current suite of symbols is

not as user friendly as it could be: the colour sequence is not logical, and the watermarking reduces clarity, particularly for the less well sighted. Changes to the current requirements are needed in order to address these issues by introducing a more logical ‘traffic light’ colour sequence between age ratings and removing the watermarking behind the symbols.

- 7.3 In order to make allowance for the move towards smaller, more environmentally friendly packaging, this instrument also reduces the required size at which the numbers and letters inside the classification symbols must be displayed. Currently any letters or numbers (e.g. ‘PG’, ‘15’) must be displayed at a minimum height of 5mm on tapes, discs, cartridges and other storage devices, as well as on outer packaging. The simplified nature of the updated symbols means they will work well at smaller sizes without losing any clarity. The amended Regulations will therefore reflect a reduction to the minimum size, to 4mm, at which letters and numbers must be displayed inside classification symbols.
- 7.4 While the instrument only relates to physical media, the amendments will also allow the symbols to be easier to display online – for example, on video on demand platforms – and will encourage uniformity with the age ratings consumers see in the offline world. This supports the government’s Online Harms agenda by introducing indicators more suitable to voluntary adoption by online content providers.

8. Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 There are no current plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

- 10.1 A formal consultation on this instrument has not been undertaken. However, the BBFC carried out an industry consultation, which sought views about potential amendment of the symbols from the relevant industry bodies, enforcement bodies and fellow regulators, including the British Association for Screen Entertainment (BASE), the Entertainment Retailers Association (ERA), the Video Standards Council (VSC), and the Chartered Trading Standards Institute (CTSI). The BBFC also sought the views of all customers who submitted video works for classification under the VRA 1984 during 2018 and during the first five months of 2019 (i.e. before the consultation began). In total around 190 companies were consulted. Views were sought via email and stakeholder meetings. Officials from the Department for Digital, Culture, Media and Sport have reviewed the BBFC’s industry consultation and responses, and accept the outcome.
- 10.2 The BBFC’s industry consultation requested views on a number of points, including the minimum size at which the numbers and letters within the symbols are displayed should be reduced; and whether a six-month transition period would be sufficient for them to adjust to using new symbols, if they were to be updated. Stakeholders responded positively and agreed with the proposal that the symbols used on physical media should be amended, and that amendments of the kind implemented by the instrument would assist in making the symbols clearer for consumers.

11. Guidance

- 11.1 Guidance on the amendments made under this instrument will be made available by the BBFC on their website (www.bbfc.co.uk) as part of their wider brand refresh, which was partially rolled out in 2019.

12. Impact

- 12.1 A *de minimus* Impact Assessment was prepared for this instrument. It demonstrates that there is no significant impact on business, charities or voluntary bodies, with an estimated total cost to industry as a whole likely to be less than £23,000 in the first year, and no on-going costs.
- 12.2 There is no, or no significant, impact on the public sector.

13. Regulating small business

- 13.1 These Regulations have a direct impact on the workings of the BBFC and the screen industries with limited impact on small businesses given that most DVD manufacturers are large businesses. The legislation applies to all activities distributing physical copies of films and TV series in the UK and the labelling requirements are designed to provide protection for consumers. Exempting any businesses from the labelling requirements would undermine this protection.
- 13.2 While there is scope for the labelling changes to affect some small and micro businesses, there will be a six-month transition period to facilitate businesses of all sizes to make the necessary minor changes to their materials.

14. Monitoring & review

- 14.1 The Minister of State for Digital and Culture has determined that it would not be appropriate to make provision in the Regulations for a review under sections 28-32 of the Small Business, Enterprise and Employment Act 2015. Such a provision would be disproportionate (in accordance with Section 31(2)(a) of that Act) taking into account the economic impact of the regulatory provision on the qualifying activity.
- 14.2 Monitoring of these changes will be carried out by the BBFC and the CTSI, and officials will maintain a watching brief on the effective operation of the revised labelling requirements.

15. Contact

- 15.1 James Butler at the Department for Digital, Culture, Media and Sport (Telephone: 0207 211 6307 or email: james.butler@culture.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Victoria MacCallum at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Caroline Dinenage MP at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.