

British Board of Film Classification (Accountability to Parliament and Appeals) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Mr Julian Brazier, are published separately as Bill 16 – EN.

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Make provision for parliamentary scrutiny of senior appointments to the British Board of Film Classification and of guidelines produced by it; to establish a body with powers to hear appeals against the release of videos and DVDs and the classification of works in prescribed circumstances; to make provision about penalties for the distribution of illegal works; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Parliamentary scrutiny of appointments to the British Board of Film Classification

- (1) Section 4 of the Video Recordings Act 1984 (c. 39) (authority to determine suitability of video works for classification) (“the 1984 Act”) is amended as follows. 5
- (2) After subsection (2) insert—
- “(2A) Where a vacancy exists in any of the principal offices of the designated authority, the designated authority must provide to the Home Affairs Committee of the House of Commons (“the Committee”) a list containing the names of at least 3 persons whom the designated authority considers qualified to fill the vacancy. 10
- (2B) The Secretary of State must, by order made by statutory instrument, specify the offices to which subsection (2A) applies.
- (2C) The Secretary of State must not confirm the appointment of a person included in the list mentioned in subsection (2A) in respect of whom the Committee has signified its view that he or she is not an appropriate person to fill the relevant vacancy. 15
- (2D) Where the procedure described in subsections (2A) and (2C) applies, it is to be followed before the commencement of the parliamentary procedure for designation under section 5 of this Act.” 20

- (3) In subsection (4) after “section” insert “, subject to subsection (2A),”.

2 Establishment of a body to hear appeals and reviews of decisions of the British Board of Film Classification

- (1) The 1984 Act is further amended as follows.

- (2) After section 4 insert – 5

“4ZA Establishment of a body to hear appeals or reviews

- (1) The designated authority must establish a body (“the appeals body”) to hear all appeals or reviews of the authority’s decisions on classification and other matters related to video works.
- (2) The appeals body is to be composed of a panel of independent persons from whom a jury of 12 must be selected at random for each hearing of an appeal or review. 10
- (3) A member of the appeals body must not take part in a hearing if at any time he or she has a conflict of interest that could conflict with the proper performance of a member’s functions in relation to the matter of the appeal or review. 15
- (4) A member of the appeals body may not serve in that capacity for longer than 5 years.
- (5) A member of the appeals body must be provided by the designated authority with reasonable expenses for such jury attendance, but with no other payment. 20
- (6) The designated authority must appoint one member of each jury to act as chairman.
- (7) The decision on the suitability of a video work in terms of whether or not it shall be issued with a classification certificate, or with a different classification certificate, is to be decided by majority vote of the jury, and where the votes are equal the chairman shall have the casting vote. 25
- (8) In making a decision on the suitability of a video work, the chairman and the jury must have special regard to public concerns about violence and the sexualisation of children. 30
- (9) The results of all appeals and reviews must be published in the designated authority's annual report.
- (10) In this section “independent”, in relation to a member of the appeals body, means having no financial or other personal interest in the video or film industry. 35

4ZB Hearing at any stage by appeals body of reviews as a result of early day motion

- (1) If, during any stage of the process of classification of a video work by the designated authority, not fewer than 50 Members of the House of Commons give notice of a motion calling for a review of a relevant decision by the authority, the decision in question shall stand referred to the appeals body, which must consider it in accordance with the procedure set out in section 4ZA. 40

- (2) In this section “relevant decision” means a decision by the designated authority concerning the classification of a video or about the handling of such a matter.

4ZC Review of determinations as to suitability of existing classified video works as a result of early day motion

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- (1) The Secretary of State may by order provide that, where not fewer than 50 Members of the House of Commons give notice of a motion calling for a review by the appeals body of the suitability of an existing video work, the video specified in the notice of motion shall stand referred to the appeals body, which must conduct a review in accordance with the procedure set out in section 4ZA.

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- (2) An order under subsection (1) must provide for the sale, supply and distribution of a video work which is the subject of a review under subsection (1) to be suspended pending the consideration of the review by the appeals body if the Secretary of State considers it likely that such a video work may not be considered suitable for a classification certificate.

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- (3) The power to make an order under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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3 Parliamentary scrutiny of BBFC guidelines

- (1) The 1984 Act is further amended as follows.
 (2) After section 4ZC (inserted by section 2 of this Act) insert –

“4ZD Parliamentary scrutiny of BBFC guidelines

- (1) Once in every Parliament, and prior to any proposed revision by the designated authority of its guidelines, the authority must submit a draft of the guidelines (or, as the case may be, revised guidelines) to the Committee.
- (2) The designated authority must not treat the guidelines or the revised guidelines as being in force unless the Committee has signified its approval of them.
- (3) In this section “guidelines” means the guidelines used by the designated authority in determining the suitability of a video work.”

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4 Increase in penalties for offences

- (1) The 1984 act is further amended as follows.
- (2) In section 9(3) (supplying video recording of unclassified work) –
 (a) in paragraph (a) for “2 years” substitute “7 years”, and
 (b) in paragraph (b) for “6 months” substitute “12 months”.
- (3) In section 10(3) (possession of video recording of unclassified work for the purposes of supply) –
 (a) in paragraph (a) for “2 years” substitute “7 years” and
 (b) in paragraph (b) for “6 months” substitute “12 months”.

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- (4) In section 11(3) (supplying video recording of classified work in breach of classification), for “6 months” substitute “12 months” and for “level 5 on the standard scale” substitute “£20,000”.
- (5) In section 12(4A) (certain video recordings only to be supplied in licensed sex shops), for “6 months” substitute “12 months” and for “level 5 on the standard scale” substitute “£20,000”. 5
- (6) In section 13(3) (supply of video recording not complying with requirements as to labels, etc), for “level 5 on the standard scale” substitute “£10,000”.
- (7) In section 14(5) (supply of video recording containing false indication as to classification), for “6 months” substitute “12 months” and for “level 5 on the standard scale” substitute “£20,000”. 10

5 Interpretation

- (1) The 1984 Act is further amended as follows.
- (2) In section 22(1) (other interpretation) at the appropriate place insert— 15
- ““Home Affairs Committee” means any committee of the House of Commons appointed under that name or any committee appointed under a different name with substantially the same functions;”;
- ““suitability” means suitability for the issue of a classification certificate or suitability for the issue of a certificate of a particular description;”.

6 Commencement 20

- (1) The preceding provisions of this Act shall come into force in accordance with provision made by order by the Secretary of State.
- (2) An order under subsection (1)— 25
- (a) shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution by either House of Parliament; and
- (b) may include such transitional or consequential provisions to amend or repeal Acts or statutory instruments as the Secretary of State considers necessary or expedient.

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