

FILMS, VIDEOS, AND PUBLICATIONS CLASSIFICATION AMENDMENT BILL (NO. 3)

EXPLANATORY NOTE

General Policy Statement

This Bill makes 2 amendments to the Films, Videos, and Publications Classification Act 1993 (the principal Act). First, it provides greater flexibility in relation to the terms of appointment of the Chief Censor of Film and Literature, the Deputy Chief Censor, and classification officers. Second, it removes the requirement for videos previously labelled under the Video Recordings Act 1987 to be relabelled under the principal Act by 1 April 1999.

Terms of Office of Chief Censor and Other Officers

The existing section 81 of the principal Act relates to the term of office of the Chief Censor, the Deputy Chief Censor, and classification officers. A person may hold office in any of those positions for a maximum of 2 consecutive terms, each of not more than 3 years. After that, a person may not again hold any of those positions for at least 3 years.

The restrictions imposed by the existing section 81 have been found to be too inflexible. The maximum period of office of 6 consecutive years prevents the retention of officers with experience and expertise. It also hinders the development of a career structure for officers, because it prevents the promotion of classification officers to the position of Deputy Chief Censor or Chief Censor.

The 2 term restriction has also caused difficulties because it applies regardless of the length of the 2 consecutive terms, and regardless of the reason why a term ends. This has meant that classification officers cannot practically switch between full-time and part-time positions. It has also prevented the use of a pool of part-time classification officers who can be drawn on from time to time. The ability to use such a pool would increase the flexibility of the Office of Film and Literature Classification to deal with the often unpredictable fluctuations in its volume of work.

The Bill therefore amends the principal Act to allow the Chief Censor, Deputy Chief Censor, and classification officers to be employed for any number of terms (providing no term exceeds 3 years).

Video Relabelling

The principal Act currently provides that videos labelled under the Video Recordings Act 1987 cannot be legally supplied to the public on or after 1 April

1999 unless they are relabelled under the principal Act before that date. Until that date, transitional provisions contained in regulations made under section 176 of the principal Act apply. The regulations allow videos that were labelled under the Video Recordings Act 1987 to continue to be supplied to the public as long as the requirements of the Video Recordings Act 1987 with respect to the labelling of video recordings are complied with.

The objective of the relabelling requirement was to ensure that, after a transitional period, there would be a single, comprehensive labelling system in operation. This was designed to minimise any public confusion about the rating or classification of videos.

Because of the large number of videos that would be required to be relabelled before 1 April 1999, the resulting compliance costs to the video industry, and the practicalities of physically relabelling the videos, it is proposed to repeal the relabelling requirement relating to videos. This means that there will continue to be 2 labelling systems in place that reflect the different rating and classification systems applying under the Video Recordings Act 1987 and the principal Act. In order to minimise public confusion, it is proposed that video outlets will be required to display posters and advertising material explaining the ratings and classifications under the Video Recordings Act 1987, and their equivalent ratings and classifications under the principal Act.

Clause by Clause Analysis

Clause 1 relates to the Short Title and commencement. This Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 2 repeals section 81 of the principal Act (which relates to the term of office of the Chief Censor, Deputy Chief Censor, and classification officers), and substitutes a *new section 81*.

New section 81 provides that these officers may be appointed for a term of not more than 3 years, and may from time to time be reappointed for a term of not more than 3 years.

Clauses 3 and 4 amend sections 149 and 176 of the principal Act. The amendments relate to the relabelling, under the principal Act, of videos previously labelled under the Video Recordings Act 1987.

As set out in the general policy statement, *clauses 3 and 4*—

- remove the current requirement in the principal Act that such videos be relabelled before 1 April 1999
- empower the making of regulations requiring that video outlets display posters and advertising material explaining the ratings and classifications under the Video Recordings Act 1987, and their equivalent ratings and classifications under the principal Act.

The amendments in *clauses 3 and 4* do not affect the transitional provisions of the principal Act relating to the public exhibition of films. The principal Act requires that films approved under the Films Act 1983 cannot be legally exhibited to the public on or after 1 April 1999 unless they are labelled under the principal Act before that date. Until that date, transitional provisions contained in regulations made under section 176 of the principal Act apply. The regulations allow films in respect of which a decision was made under the Films Act 1983 to continue to be exhibited to the public as long as the requirements of the Films Act 1983 with respect to the exhibition of a film are complied with.

The transitional provisions of the principal Act relating to the public exhibition of films will still expire on 31 March 1999. Films exhibited to the public after that date will therefore need to have been labelled under the principal Act.

Clause 5 consequentially repeals the Films, Videos, and Publications Classification Amendment Act 1997, but saves the effect of the amendments, repeals, and savings in that Act.

Clause 6 is a savings provision. It continues in force those provisions of the Films, Videos, and Publications Classification Regulations 1994 (S.R. 1998/15) that relate to the labelling of videos previously labelled under the Video Recordings Act 1987. Those provisions were made under the power conferred by section 176 of the principal Act. That power is repealed by *clause 4*, and incorporated in section 149 of the principal Act by *clause 3*. *Clause 6* therefore makes it clear that the regulations continue in force, despite this change.

Rt Hon D A M Graham

**FILMS, VIDEOS, AND PUBLICATIONS
CLASSIFICATION AMENDMENT (NO. 3)**

ANALYSIS

Title	4. Regulations relating to transitional matters
1. Short Title and commencement	5. Repeal
2. Term of office	6. Saving
3. Regulations	

A BILL INTITULED

**An Act to amend the Films, Videos, and Publications
Classification Act 1993**

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

5 **1. Short Title and commencement**—(1) This Act may be
cited as the Films, Videos, and Publications Classification
Amendment Act (No. 3) 1998, and is part of the Films, Videos,
and Publications Classification Act 1993* (“the principal Act”).
10 (2) This Act comes into force on the day after the date on
which it receives the Royal assent.

15 **2. Term of office**—The principal Act is amended by
repealing section 81, and substituting the following section:
“81. (1) A person appointed under section 80 may be
appointed for any period not exceeding 3 years, and may from
time to time be reappointed for any period not exceeding 3
years.
“ (2) **Subsection (1)** is subject to section 83.”
Cf. 1983, No. 130, s. 5 (2A), (2B); 1987, No. 85, s. 6 (4), (4A)

20 **3. Regulations**—(1) Section 149 of the principal Act is
amended by inserting, after paragraph (j), the following
paragraph:

*1993, No. 94
Amendments: 1997, No. 44; 1998, No. 45

*Films, Videos, and Publications
Classification Amendment (No. 3)*

“(ja) Requiring the display, on premises where films to which regulations made under **paragraph (nd)** apply are supplied to the public or offered for supply to the public, of posters and advertising material explaining the ratings and classifications under the Video Recordings Act 1987, and their equivalent ratings and classifications under this Act:” 5

(2) Section 149 of the principal Act is amended by inserting, after paragraph (nc), the following paragraph:

“(nd) Providing, in relation to any film in respect of which a decision has been made under the Video Recordings Act 1987, that unless a label has been issued under this Act in respect of the film, compliance with all or any of the requirements of the Video Recordings Act 1987 with respect to the labelling of a video recording is regarded as compliance with all or any of the requirements of this Act with respect to the public supply of that film:” 10
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4. Regulations relating to transitional matters—The principal Act is amended by repealing section 176, and substituting the following section: 20

“176. (1) Without limiting section 149, regulations may be made under that section prescribing transitional and savings provisions relating to the coming into force of this Act, which may be in addition to or in place of any of the provisions of this Part. 25

“(2) Without limiting the generality of **subsection (1)**, any such regulations may provide, in relation to any film in respect of which a decision has been made under the Films Act 1983, that for a specified transitional period or until the sooner issue of a label under this Act in respect of the film, compliance with all or any of the requirements of the Films Act 1983 with respect to the exhibition of a film is regarded as compliance with all or any of the requirements of this Act with respect to the public exhibition of that film.” 30
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5. Repeal—(1) The Films, Videos, and Publications Classification Amendment Act 1997 is consequentially repealed.

(2) The repeal, by this section, of the Films, Videos, and Publications Classification Amendment Act 1997— 40

(a) Does not affect the amendments or repeals made by sections 2 to 4 of that Act:

(b) Does not affect the saving effected by section 5 of that Act.

6. Saving—(1) This section applies to all regulations in force at the commencement of this section—

5 (a) That were made under section 149 of the principal Act under any power conferred by section 176 of the principal Act (as it existed immediately before the commencement of this section); and

10 (b) That, after the commencement of this section, could be made (wholly or in part) under **paragraph (ja) or paragraph (nd)** of section 149 of the principal Act (as amended by **section 3** of this Act).

(2) All regulations to which this section applies continue in force after the commencement of this section as if they had
15 been validly made under section 149 of the principal Act (as amended by **section 3** of this Act) without reliance on any power conferred by section 176 of the principal Act.

(3) The fact that any regulations are continued in force by
20 this section is without prejudice to any power to amend or revoke those regulations.