

**Jersey Law 20/1990**

**VIDEO RECORDINGS (JERSEY) LAW 1990**

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**A LAW** to make provision for regulating the distribution of video recordings, sanctioned by Order of Her Majesty in Council of the

**31st day of OCTOBER 1990**

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*(Registered on the 7th day of December 1990)*

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**STATES OF JERSEY**

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The 19th day of June 1990

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**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

**ARTICLE 1**

**Interpretation**

(1) The provisions of this Article shall have effect for the interpretation of terms used in this Law.

(2) “Video work” means any series of visual images (with or without sound) –

- (a) produced electronically by the use of information contained on any disc or magnetic tape; and
- (b) shown as a moving picture.

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(3) “Video recording” means any disc or magnetic tape containing information by the use of which the whole or a part of a video work may be produced.

(4) “Supply” means supply in any manner, whether or not for reward, and, therefore, includes supply by way of sale, letting on hire, exchange or loan; and references to a supply are to be interpreted accordingly.

(5) The “designated authority” means the authority for the time being designated by the Secretary of State under section 4 of the Video Recordings Act 1984, of the United Kingdom.

(6) “Classification certificate” means a certificate issued in respect of a video work by the designated authority.

(7) In this Law –

“business”, except in paragraph (4) of Article 3, includes any activity carried on by a club;

“Committee” means the Education Committee;

“premises” includes any vehicle, vessel or stall.

(8) For the purposes of this Law, a video recording contains a video work if it contains information by the use of which the whole or a part of the work may be produced; but where a video work includes any extract from another video work, that extract is not to be regarded for the purposes of this paragraph as a part of that other work.

(9) Where any alteration is made to a video work in respect of which a classification certificate has been issued, the classification certificate is not to be treated for the purposes of this Law as issued in respect of the altered work.

In this paragraph, “alteration” includes addition.

## ARTICLE 2

**Exempted works**

(1) Subject to paragraph (2) of this Article, a video work is for the purposes of this Law an exempted work if, taken as a whole –

- (a) it is designed to inform, educate or instruct;
- (b) it is concerned with sport, religion or music; or
- (c) it is a video game.

(2) A video work is not an exempted work for those purposes if, to any significant extent, it depicts –

- (a) human sexual activity or acts of force or restraint associated with such activity;
- (b) mutilation or torture of, or other acts of gross violence towards, humans or animals;
- (c) human genital organs or human urinary or excretory functions;

or is designed to any significant extent to stimulate or encourage anything falling within sub-paragraph (a) or, in the case of anything falling within sub-paragraph (b), is designed to any extent to do so.

## ARTICLE 3

**Exempted supplies**

(1) The provisions of this Article apply to determine whether or not a supply of a video recording is an exempted supply for the purposes of this Law.

(2) The supply of a video recording by any person is an exempted supply if it is neither –

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- (a) a supply for reward; nor
- (b) a supply in the course or furtherance of a business.

(3) Where on any premises facilities are provided in the course or furtherance of a business for supplying video recordings, the supply by any person of a video recording on those premises is to be treated for the purposes of paragraph (2) of this Article as a supply in the course of furtherance of a business.

(4) Where a person (in this paragraph referred to as the “original supplier”) supplies a video recording to a person who, in the course of a business, makes video works or supplies video recordings, the supply is an exempted supply –

- (a) if it is not made with a view to any further supply of that recording; or
- (b) if it is so made, but is not made with a view to the eventual supply of that recording to the public or is made with a view to the eventual supply of that recording to the original supplier.

For the purposes of this paragraph, any supply is a supply to the public unless it is –

- (i) a supply to a person who, in the course of a business, makes video works or supplies video recordings;
  - (ii) an exempted supply by virtue of paragraphs (2) and (5) to (10) of this Article;
  - (iii) a supply outside Jersey.
- (5) Where a video work –
- (a) is designed to provide a record of an event or occasion for those who took part in the event or occasion or are connected with those who did so;

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- (b) does not, to any significant extent, depict anything falling within sub-paragraph (a), (b) or (c) of paragraph (2) of Article 2 of this Law; and
- (c) is not designed to any significant extent to stimulate or encourage anything falling within sub-paragraph (a) of that paragraph or, in the case of anything falling within sub-paragraph (b) of that paragraph, is not designed to any extent to do so;

the supply of a video recording containing only that work to a person who took part in the event or occasion or is connected with someone who did so is an exempted supply.

(6) The supply of a video recording for the purpose only of the exhibition of any video work contained in the recording in premises other than a dwelling house, being premises mentioned in paragraph (7) of this Article is an exempted supply.

(7) The premises referred to in paragraph (6) of this Article are premises normally used for the exhibition of cinematograph films passed by the Bailiff.

(8) The supply of a video recording for the purpose only of the broadcasting of any video work contained in the recording by the British Broadcasting Corporation or the Independent Broadcasting Authority or its distribution by a system licensed under Article 5 of the Telecommunications (Jersey) Law 1972,<sup>1</sup> is an exempted supply.

(9) The supply of a video recording for the purpose of submitting a video work contained in the recording for the issue of a classification certificate or otherwise only for purposes of arrangements made by the designated authority is an exempted supply.

(10) The supply of a video recording with a view only to its use in training for or carrying on any medical occupation is an exempted supply.

<sup>1</sup> Volume 1970–1972, page 398.

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(11) The supply of a video recording otherwise than for reward, being a supply made for the purpose only of supplying it to a person who previously made an exempted supply of the recording, is also an exempted supply.

(12) Nothing in this Article shall be deemed to exempt in any circumstances the supply of a video recording described in this Article to a child under eighteen years of age.

#### ARTICLE 4

##### **Power of Committee to alter classification, etc**

(1) Where the Committee is satisfied that it is necessary to do so in order to protect children and young persons from exposure to material suitable only in the opinion of the Committee for adults, the Committee may require the statement on the classification certificate to be altered as to the persons by whom it is suitable for viewing.

(2) Where the Committee requires any such alteration as is referred to in paragraph (1) to be made, it shall also require such alterations as it thinks fit and in such manner as it thinks fit to be made to the labelling of the video recording, spool, case or other thing on or in which the video recording is kept.

(3) References in this Law to “classification certificate” and to requirements imposed by regulations made by the Secretary of State under section 8 of the Video Recordings Act 1984, of the United Kingdom, shall apply *mutatis mutandis* to any alteration required by the Committee to be made under this Article to any classification certificate or label.

#### ARTICLE 5

##### **Supplying video recording of unclassified work**

(1) A person who supplies or offers to supply a video recording containing a video work in respect of which no classification certificate has been issued is guilty of an offence unless –

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- (a) the supply is, or would if it took place be, an exempted supply; or
- (b) the video work is an exempted work.

(2) It is a defence to a charge of committing an offence under this Article to prove –

- (a) that the accused neither knew nor had reasonable grounds to believe that the classification certificate contained the statement concerned;
- (b) that the accused believed on reasonable grounds that the video work concerned or, if the video recording contained more than one work to which the charge relates, each of the works was an exempted work; or
- (c) that the accused believed on reasonable grounds that the supply was, or would if it took place be, an exempted supply by virtue of paragraph (4) or (5) of Article 3 of this Law.

(3) For the purposes of this Article, a video recording containing a video work in respect of which a classification certificate has been issued that the work is to be shown only in a licensed sex shop, shall be deemed to be a video work in respect of which no classification certificate has been issued.

## ARTICLE 6

### **Possession of video recording of unclassified work for the purposes of supply**

(1) Where a video recording contains a video work in respect of which no classification certificate has been issued, a person who has the recording in his possession for the purpose of supplying it is guilty of an offence unless –

- (a) he has it in his possession for the purpose only of a supply which, if it took place, would be an exempted supply; or

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(b) the video work is an exempted work.

(2) It is a defence to a charge of committing an offence under this Article to prove –

(a) that the accused neither knew nor had reasonable grounds to believe that the classification certificate contained the statement concerned;

(b) that the accused believed on reasonable grounds that the video work concerned or, if the video recording contained more than one work to which the charge relates, each of those works, was an exempted work;

(c) that the accused had the video recording in his possession for the purpose only of a supply which he believed on reasonable grounds would, if it took place, be an exempted supply by virtue of paragraph (4) or (5) of Article 3 of this Law; or

(d) that the accused did not intend to supply the video recording until a classification certificate had been issued in respect of the video work concerned.

(3) For the purposes of this Article, a video recording containing a video work in respect of which a classification certificate has been issued that the work is to be shown only in a licensed sex shop, shall be deemed to be a video work in respect of which no classification certificate has been issued.

## ARTICLE 7

### **Supplying video recording of classified work in breach of classification**

(1) Where a classification certificate issued in respect of a video work states that no video recording containing that work is to be supplied to any person who has not attained the age specified in the certificate, a person who supplies or offers to supply a video recording containing that work to a person who has not attained the age so specified



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is guilty of an offence unless the supply is, or would if it took place be, an exempted supply.

(2) It is a defence to a charge of committing an offence under this Article to prove –

- (a) that the accused neither knew nor had reasonable grounds to believe that the classification certificate contained the statement concerned;
- (b) that the accused neither knew nor had reasonable grounds to believe that the person concerned had not attained that age; or
- (c) that the accused believed on reasonable grounds that the supply was, or would if it took place be, an exempted supply by virtue of paragraph (4) or (5) of Article 3 of this Law.

ARTICLE 8

**Supply of video recording not complying with requirements as to labels, etc**

(1) A person who supplies or offers to supply a video recording or any spool, case or other thing on or in which the recording is kept which does not satisfy any requirement imposed by Regulations made by the Secretary of State under section 8 of the Video Recordings Act 1984, of the United Kingdom (requirements as to labelling etc.) is guilty of an offence unless the supply is, or would if it took place be, an exempted supply.

(2) It is a defence to a charge of committing an offence under this Article to prove that the accused –

- (a) believed on reasonable grounds that the supply was, or would if it took place be, an exempted supply by virtue of paragraph (4) or (5) of Article 3 of this Law; or

- (b) neither knew nor had reasonable grounds to believe that the recording, spool, case or other thing (as the case may be) did not satisfy the requirement concerned.

## ARTICLE 9

### **Supply of video recording containing false indication as to classification**

(1) A person who supplies or offers to supply a video recording containing a video work in respect of which no classification certificate has been issued is guilty of an offence if the video recording or any spool, case or other thing on or in which the recording is kept contains any indication that a classification certificate has been issued in respect of that work unless the supply is, or would if it took place be, an exempted supply.

(2) It is a defence to a charge of committing an offence under paragraph (1) of this Article to prove –

- (a) that the accused believed on reasonable grounds –
  - (i) that a classification certificate had been issued in respect of the video work concerned; or
  - (ii) that the supply was, or would if it took place be, an exempted supply by virtue of paragraph (4) or (5) of Article 3 of this Law; or
- (b) that the accused neither knew nor had reasonable grounds to believe that the recording, spool, case or other thing (as the case may be) contained the indication concerned.

(3) A person who supplies or offers to supply a video recording containing a video work in respect of which a classification certificate has been issued is guilty of an offence if the video recording or any spool, case or other thing on or in which the recording is kept contains any indication that is false in a material particular of any statement contained in the certificate, unless the supply is, or would if it took place be, an exempted supply.

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(4) It is a defence to a charge of committing an offence under paragraph (3) of this Article to prove –

- (a) that the accused believed on reasonable grounds –
  - (i) that the supply was, or would if it took place be, an exempted supply by virtue of paragraph (4) or (5) of Article 3 of this Law; or
  - (ii) that the certificate concerned contained the statement indicated; or
- (b) that the accused neither knew nor had reasonable grounds to believe that the recording, spool, case or other thing (as the case may be) contained the indication concerned.

## ARTICLE 10

### **Penalties**

(1) A person guilty of an offence under Article 5 or 6 of this Law shall be liable on conviction to a fine.

(2) A person guilty of an offence under any other provision of this Law shall be liable, on conviction, to a fine not exceeding one thousand pounds.

## ARTICLE 11

### **Offences by bodies corporate**

(1) Where an offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

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(2) Where the affairs of a body corporate are managed by its members, paragraph (1) of this Article shall apply in relation to the acts and defaults of a member in connexion with his functions of management as if he were a director of the body corporate.

ARTICLE 12

**Entry, search and seizure**

(1) If the Bailiff is satisfied by information on oath laid by a Police Officer or officer of the Committee that there are reasonable grounds for suspecting –

- (a) that an offence under this Law has been or is being committed on any premises; and
- (b) that evidence that the offence has been or is being committed is on those premises;

the Bailiff may issue a warrant authorising any Police Officer or officer of the Committee named therein to enter and search the premises within one month from the date of issue of the warrant.

(2) Any Police Officer or officer of the Committee entering or searching any premises in pursuance of a warrant under paragraph (1) may use reasonable force if necessary and may seize anything found there which he has reasonable grounds to believe may be required to be used in evidence in any proceedings for an offence under this Law.

ARTICLE 13

**Evidence by certificate**

(1) In any proceedings for an offence under this Law a certificate purporting to be signed by a person authorized in that behalf by the Committee and stating –

- (a) that he has examined –

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- (i) the record maintained in pursuance of arrangements made by the designated authority; and
  - (ii) a video work (or part of a video work) contained in a video recording identified by the certificate; and
- (b) that the record shows that, on the date specified in the certificate, no classification certificate had been issued in respect of the video work concerned;

shall be admissible as evidence of the fact that, on that day, no classification certificate had been issued in respect of the video work concerned.

(3) A certificate under paragraph (1) of this Article may also state –

- (a) that the video work concerned differs in such respects as may be specified from another video work examined by the person so authorized and identified by the certificate; and
- (b) that the record shows that, on a date specified in the certificate under paragraph (1) of this Article, a classification certificate was issued in respect of that other video work;

and if it does so, it shall be admissible as evidence of the fact that the video work concerned differs in those respects from the other video work.

(3) In any proceedings for an offence under this Law, a certificate purporting to be signed by a person authorized in that behalf by the Committee and stating –

- (a) that he has examined –
  - (i) the record maintained in pursuance of arrangements made by the designated authority; and

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- (ii) a video work (or part of a video work) contained in a video recording identified by the certificate; and
- (b) that the record shows that, on the date specified in the certificate under this paragraph, a classification certificate was issued in respect of the video work concerned and that a document identified by the certificate under this paragraph is a copy of the classification certificate so issued;

shall be admissible as evidence of the fact that, on that date, a classification certificate in terms of the document so identified was issued in respect of the video work concerned.

(4) Any document or video recording identified in a certificate tendered in evidence under this Article shall be treated as if it had been produced as an exhibit and identified in court by the person signing the certificate.

(5) This Article does not make a certificate admissible as evidence in proceedings for an offence unless a copy of the certificate has, not less than seven days before the hearing, been served on the person charged with the offence in one of the following ways –

- (a) by delivering it to him or to his legal adviser; or
- (b) by addressing it to him and leaving it at his usual or last known place of abode or place of business or by addressing it to his legal adviser and leaving it at his office; or
- (c) by sending it in a registered letter or by the recorded delivery service addressed to him at his usual or last known place of abode or place of business or addressed to his legal adviser at his office;
- (d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or sending it in a registered letter or by the recorded delivery service addressed to the secretary or clerk of that body at that office.

## ARTICLE 14

**Forfeiture**

(1) Where a person is convicted of any offence under this Law, the court may order any video recording –

- (a) produced to the court; and
- (b) shown to the satisfaction of the court to relate to the offence;

to be forfeited.

(2) The court shall not order any video recording to be forfeited under paragraph (1) of this Article if a person claiming to be the owner of it or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

(3) References in this Article to a video recording include a reference to any spool, case or other thing on or in which the recording is kept.

(4) An order made under paragraph (1) of this Article shall not take effect until the expiration of the ordinary time within which an appeal may be instituted or, where such an appeal is duly instituted, until the appeal is finally decided or abandoned; and for this purpose –

- (a) an application for a case to be stated or for leave to appeal shall be treated as the institution of an appeal; and
- (b) where a decision on appeal is subject to a further appeal, the appeal is not finally decided until the expiration of the ordinary time within which a further appeal may be instituted or, where a further appeal is duly instituted, until the further appeal is finally decided or abandoned.

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ARTICLE 15

**Short title and commencement**

(1) This Law may be cited as the Video Recordings (Jersey) Law 1990.

(2) This Law shall come into force on such day as the States may by Act appoint, and different days may be appointed for different provisions and for different purposes.

**E.J.M. POTTER**

*Greffier of the States.*