

## HOUSE OF REPRESENTATIVES

## Supplementary Order Paper

Tuesday, 7 April 1987

## VIDEO RECORDINGS BILL

*Proposed Amendments*

Hon. PETER TAPSELL, in Committee, to move the following amendments:

*Clause 2:* To insert in line 21 on page 2, after the expression "section 31", the expression "or section 31A".

*Clause 5:* To omit this clause (which appears on page 5), and substitute the following clause:

**5. Video recordings to be labelled**—Subject to section 5A of this Act, no person shall supply or offer for supply any video recording unless—

- (a) A label has been issued under this Act in respect of that video recording; and
- (b) Subject to any regulations made under this Act, that label is affixed to that video recording, or to any cassette, case, or other container in or on which that video recording is so supplied or offered for supply.

*Clause 5A (1):* To insert, after paragraph (m) on page 6, the following new paragraph:

- (ma) Any video recording intended for supply solely to ethnic organisations:

*Clause 6 (2) (b):* To omit from line 5 on page 7 the word "withdrawn", and substitute the word "revoked".

*New clause 7A:* To insert, after clause 7 on page 8, the following new clause:

**7A. Consumer representative to be appointed to labelling body**—(1) For the purpose of ensuring that the interests of the general public are taken into account in the labelling of video recordings under this Act, the Minister shall, by notice in the *Gazette*, appoint a fit and proper person to participate in the carrying out, by the labelling body approved under section 6 of this Act, of its functions under this Act.

(2) The Minister shall make an appointment under subsection (1) of this section—

- (a) On approving any body or organisation as the labelling body under section 6 of this Act; and

(b) From time to time thereafter as may be necessary to fill any vacancy.

(3) An appointment under subsection (1) of this section may be made only on the recommendation of the Minister of Consumer Affairs, which recommendation may be made only after consultation by that Minister with the Minister of Women's Affairs.

(4) A person appointed under subsection (1) of this section shall continue to hold office under that subsection until that person dies, or resigns by notice in writing to the Minister, or that person's appointment is revoked under subsection (5) of this section, or the approval of the body or organisation as the labelling body is revoked under section 6A of this Act.

(5) The Minister may at any time, by notice in the *Gazette*, revoke the appointment of any person under subsection (1) of this section, and that person shall, on the day of the publication of the notice, cease to hold office under that subsection.

(6) The powers of the labelling body under this Act shall not be affected by the fact that, at any particular time, no person holds office under subsection (1) of this section.

*Clause 10:* To omit this clause (which appears on page 11), and substitute the following clause:

**10. Offences—**(1) Every person commits an offence who supplies or offers for supply—

- (a) Any video recording in respect of which no label has been issued under this Act; or
- (b) Any video recording that, in contravention of regulations made under this Act, does not have affixed either to it or to any cassette, case, or other container in or on which that video recording is supplied or offered for supply, the label issued under this Act in respect of that video recording.

(2) Every person commits an offence who supplies or offers for supply any video recording at a time when that video recording, or the cassette, case, or other container in or on which that video recording is supplied or offered for supply, has affixed to it, otherwise than in accordance with regulations made under this Act, the label issued under this Act in respect of that video recording.

(3) Nothing in this section shall apply in relation to a video recording that is exempted by section 5A of this Act from the requirements of section 5 of this Act or in relation to the cassette, case, or other container in or on which any such video recording is supplied or offered for supply.

(4) Every person who commits an offence against subsection (1) or subsection (2) of this section is liable on summary conviction to a fine not exceeding,—

- (a) In the case of an individual, \$3,000;
- (b) In the case of a body corporate, \$10,000.

*Clause 11:* To omit subclause (1A) (all the words in lines 21 to 27 on page 12), and substitute the following subclause:

(1A) Where—

- (a) The labelling body is having substantial difficulty in determining the appropriate rating to assign to a video recording; or

(b) There is disagreement among the persons who are carrying out the functions of the labelling body under this Act on the appropriate rating to assign to a video recording,—

the labelling body may, with the leave of the Secretary obtained on application made on the form provided for that purpose by the Secretary, submit that video recording to the Authority for examination and classification pursuant to sections 17 and 19 of this Act.

*Clause 15:* To omit subclauses (4A) and (5) (all the words in lines 26 to 35 on page 15), and substitute the following subclauses:

(4A) Every notice of submission lodged with the Authority under subsection (4) of this section shall be accompanied by—

(a) The prescribed fee; and

(b) Except where the video recording is submitted to the Authority under subsection (3) of this section, a copy of the video recording to which the notice of submission relates.

(4B) Where a video recording is submitted to the Authority under subsection (3) of this section, and a copy of that video recording is not submitted to the Authority, the Authority shall take all reasonable steps to obtain a copy of the video recording.

(4C) If the Authority, after taking such steps as are required by subsection (4B) of this section, is unable to obtain a copy of a video recording submitted to it under subsection (3) of this section, that submission shall lapse, and the Authority shall notify the person who submitted that video recording that that submission has lapsed.

(5) If any video recording submitted under this section or under section 11 or section 23 of this Act is not adaptable to the equipment in the Authority's office, the Authority may, except where subsection (4B) of this section applies, require the person submitting the video recording to make it available for examination by the Authority at such place as the Authority directs, and to pay all or any of the costs associated with the examination of the video recording at that place.

*Clause 23 (2):* To omit from line 38 on page 23 the words "that subsection", and substitute the words "those subsections".

*Clause 29 (2) (b):* To omit from line 15 on page 26 the word "a", and substitute the word "the".

*Clause 31A:* To omit from line 22 on page 28 the words "that section", and substitute the expression "section 31 of this Act".

*Clause 47:* To omit this clause (which appears on page 37), and substitute the following clause:

**47. Evidence of making, reproduction, distribution, sale, or hire of video recording—**When, in the case of any prosecution for an offence against this Act or any regulations made under this Act, the video recording that is the subject of the prosecution, or any cassette in which that video recording is kept, contains or bears a statement that the video recording was made, reproduced, distributed, sold, or hired by any person, that statement may be received as sufficient evidence of the fact so stated unless the contrary is proved.

*Clause 51:* To insert in line 33 on page 39, after the word “Act”, the words “or any regulations made under this Act”.

*Clause 53 (1):* To omit from line 6 on page 40 the words “section 9 or section 10 or section 58 or section 59 of this Act”, and substitute the words “section 9A or section 10 or section 58 or section 59 of this Act, or an offence against any regulations made under this Act”.

*Clause 59:* To omit subclause (6) (all the words in lines 19 to 31 on page 44), and substitute the following subclause:

(6) Without limiting the provisions of subsections (1) to (5) of this section, where an Inspector discovers any person offering for supply any video recording (not being a video recording that is exempted, by section 5A of this Act, from the requirements of section 5 of this Act), and—

(a) The Inspector believes, on reasonable grounds, that no label has been issued under this Act in respect of that video recording; or

(b) That video recording, or any cassette, case, or other container in or on which that video recording is so offered for supply,—

(i) Does not have affixed to it, as required by regulations made under this Act, the label issued under this Act in respect of that video recording; or

(ii) Has affixed to it, otherwise than in accordance with regulations made under this Act, the label issued under this Act in respect of that video recording,—

the Inspector may seize that video recording, and any cassette, case, or other container in or on which that video recording is so offered for supply, and deliver them to the Secretary.

*Clause 60:* To omit paragraph (a) (all the words in lines 25 to 27 on page 45), and substitute the following paragraph:

(a) Prescribing the procedures relating to—

(i) The examination of video recordings by the labelling body:

(ii) The issue of labels in respect of video recordings for the purposes of this Act:

To omit paragraphs (c) and (d) (all the words in lines 30 to 43 on page 45), and substitute the following paragraphs:

(c) Prescribing the circumstances in which the labelling body may not assign a rating to a video recording:

(d) Prescribing the form and content of labels to be used for the purposes of this Act, and regulating the affixing of those labels to—

(i) Video recordings:

(ii) The cassettes, cases, or other containers in or on which video recordings are kept:

(iii) Any posters or other advertising material used or intended for use in relation to the advertising of any video recording to the public:

To insert in line 5 on page 46, after the word “ratings”, the words “and classifications”.

*Clause 61 (1):* To omit from line 29 on page 47 the word “Act” where it last appears.

## EXPLANATORY NOTE

The main amendments to the Video Recordings Bill proposed in this Supplementary Order Paper are as follows:

- (a) *Clause 5A (1)* is amended by inserting a new *paragraph (ma)*. The effect of the amendment is that any video recording intended for supply solely to ethnic organisations will not have to be labelled, unless it has been classified as a restricted video recording under *clause 19*:
- (b) The proposed new *clause 7A* provides for the appointment, by the Minister of Internal Affairs, of a consumer representative to participate in the carrying out, by the labelling body approved under *clause 6* of the Bill, of its functions under the Bill. That representative is to be appointed only on the recommendation of the Minister of Consumer Affairs, who, before making such a recommendation, must consult with the Minister of Women's Affairs:
- (c) *Clause 11* is amended by omitting *subclause (1A)*, and substituting a new *subclause (1A)*. The new *subclause (1A)* provides, as an additional ground on which the labelling body may refer a video recording to the Video Recordings Authority, for such a referral where there is disagreement among the persons who are carrying out the functions of the labelling body under the Bill on the appropriate rating to assign to a video recording:
- (d) *Clause 15* is amended by omitting *subclauses (4A) and (5)*, and substituting new *subclauses (4A) to (4C)* and a new *subclause (5)*. The effect of the amendments is that—
  - (i) Where a member of the public submits a video recording to the Video Recordings Authority for a decision on its classification, that person will not be required to submit a copy of the video recording itself. In those circumstances, the Authority is required to take all reasonable steps to obtain a copy of that video recording, but if it is unable to do so, the submission of that video recording to the Authority lapses; and
  - (ii) Where a person submits a video recording to the Authority under *clause 15 (3)*, and does not submit a copy of that video recording, the Video Recordings Authority may not order that person to pay the costs of examining it if it is not adaptable to the Authority's own equipment:
- (e) *Clauses 5, 10, 59 (6), and 60 (d)* have been redrafted to distinguish between a video recording and the cassette, case, or other container in or on which that video recording is kept. While labels will be issued under the Bill in respect of particular video recordings, those labels will usually be affixed to the cassette, case, or other container in or on which the video recording is kept. These clauses have therefore been redrafted to clarify the application of the Bill in this respect:
- (f) *Clause 47* is extended so that it also applies in respect of the cassette in which any video recording is kept, and *clauses 47 and 51* are amended so that they also apply in respect of offences against any regulations made under the Bill.

The other amendments contained in the Supplementary Order Paper are of a minor, technical nature, or correct minor drafting errors and omissions.