



**THE VIDEO RECORDINGS REGULATIONS 1987, AMENDMENT
NO. 2**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 27th day of August 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 69 of the Video Recordings Act 1987, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Video Recordings Regulations 1987, Amendment No. 2, and shall be read together with and deemed part of the Video Recordings Regulations 1987* (hereinafter referred to as the principal regulations).

(2) Regulation 14 of these regulations shall come into force on the 1st day of November 1990.

(3) Regulation 18 of and the Schedule to these regulations shall come into force on the 1st day of September 1990.

(4) Except as provided in subclauses (2) and (3) of this regulation, these regulations shall come into force on the 1st day of October 1990.

2. Interpretation—Regulation 2(1) of the principal regulations is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“Occupier”, in relation to any premises,—

“(a) Means the person occupying those premises; and

“(b) Includes—

“(i) Any agent, manager, or other person, acting in the general management or control of those premises; and

“(ii) Where the premises are occupied by a body of persons, whether corporate or unincorporate, the working manager;

“Trailer”, in relation to any video recording, means a short item which is included on that video recording and which—

“(a) Is not part of the main feature on that video recording; and

“(b) Is used primarily for advertising that main feature or any other video recording or film;—

and includes any other advertisement or material that is included on a video recording but which is not part of the main feature on that video recording.”

3. Meaning of consistent in character with main feature—The principal regulations are hereby amended by inserting, after regulation 2, the following regulation:

“2A. For the purposes of these regulations, a trailer included on a video recording shall be regarded as consistent in character with the main feature on that video recording if,—

“(a) Where that trailer advertises one or more films or video recordings (not being any video recording or film that is the main feature on the video recording on which the trailer is included), every video recording and every film so advertised,—

“(i) In the case of a video recording, has assigned to it a rating that is the same as, or is less restrictive than, the rating that the labelling body proposes to assign (or, in the case of a video recording to which regulation 4 of these regulations applies, the rating that is likely to be assigned) in respect of the main feature on the video recording on which the trailer is included; or

“(ii) In the case of a film, has a classification that indicates that the film is suitable for the same audience as, or for a more general audience than, the audience referred to in the rating that the labelling body proposes to assign (or in the case of a video recording to which regulation 4 of these regulations applies, the rating that is likely to be assigned) in respect of the main feature on the video recording on which the trailer is included; and

“(b) Whether or not the trailer advertises any video recording or film, the trailer does not contain material that, if that trailer were assessed under regulation 8 of these regulations as a video recording in its own right, and having regard to the matters specified in paragraphs (a) to (c) of subclause (2) of that regulation, would, in the opinion of the labelling body, result in that trailer being assigned a rating that is more restrictive than the rating that the labelling body proposes to assign (or, in the case of a video recording to which regulation 4 of these regulations applies, the rating that is likely to be assigned) in respect of the main feature on the video recording on which the trailer is included.”

4. Application for issue of label—The principal regulations are hereby amended by inserting, immediately before regulation 4, the following regulation:

“3A. Every application under section 12(1) of the Act shall be accompanied by a statement specifying the running-time of—

“(a) The main feature on the video recording to which the application relates; and

“(b) Every trailer on that video recording.”

5. Labelling body may exempt applicant for issue of label from requirement to supply copy of video recording—Regulation 4 of the principal regulations is hereby amended by adding the following subclause:

“(3) Notwithstanding anything in subclause (2) of this regulation, the labelling body may grant an exemption under subclause (1) of this regulation only if the applicant, in addition to satisfying the labelling body of the matters referred to in subclause (2) of this regulation, also satisfies the labelling body that every trailer on the video recording is consistent in character with the main feature on that video recording.”

6. Video recordings identical in content with films classified under Films Act 1983—Regulation 6(2) of the principal regulations is hereby amended by inserting, after the word “shall”, the words “, subject to regulation 8A of these regulations,”.

7. Video recordings not identical in content with films classified under Films Act 1983—Regulation 7(4) of the principal regulations is hereby amended by inserting, after the word “shall”, the words “, subject to regulation 8A of these regulations,”.

8. Video recordings not identical in content with films classified under Films Act 1983 or by overseas classification authority—Regulation 8 (4) of the principal regulations is hereby amended by omitting the words “and to subclause (5) of this regulation”, and substituting the words “, to subclause (5) of this regulation, and to regulation 8A of these regulations”.

9. Video recordings containing trailers not consistent in character with main feature—The principal regulations are hereby amended by inserting, after regulation 8, the following regulation:

“8A. (1) Notwithstanding anything in regulations 5 to 8 of these regulations, on receiving an application under section 12 (1) of the Act, the labelling body, in addition to assessing, in accordance with those regulations, the main feature on the video recording in respect of which the application is made, shall assess every trailer included on that video recording for the purpose of determining whether or not that trailer is consistent in character with that main feature.

“(2) Notwithstanding anything in regulation 6 (2) or regulation 7 (4) or regulation 8 (4) of these regulations, where, after making an assessment of any trailer under subclause (1) of this regulation, the labelling body is not satisfied that the trailer is consistent in character with the main feature on the video recording on which that trailer is included, the labelling body shall not assign a rating to that video recording, but shall submit it to the Authority in accordance with section 15 (1) of the Act.”

10. Issue of additional labels—Regulation 14 (2) of the principal regulations is hereby amended by omitting the words “the main feature on” in both places where they occur.

11. Affixing of labels—(1) Regulation 15 (1) of the principal regulations is hereby amended by adding the following definition:

“‘Slick’, in relation to any video recording, means any leaflet or notice (whether with or without illustrations or photographs) that contains information about the video recording and is intended to be affixed to, or inserted inside any sleeve of, any display case:”.

(2) Regulation 15 of the principal regulations is hereby amended by inserting, after subclause (2), the following subclauses:

“(2A) Notwithstanding anything in paragraph (a) or paragraph (b) of subclause (2) of this regulation, where any slick is affixed to, or inserted inside any sleeve of, any display case so as to be viewed through the display case, the label required by those paragraphs to be affixed to the face of the display case through which that slick may be viewed shall, instead of being affixed to that face, be affixed to the slick so as to be viewed through that face.

“(2B) Nothing in subclause (2A) of this regulation shall apply to any display case to which any label is affixed pursuant to this regulation, where that label was so affixed before the 1st day of October 1990.”

(3) Regulation 15 of the principal regulations is hereby amended by inserting, after subclause (3), the following subclause:

“(3A) Subject to subclauses (5) and (6) of this regulation, every label required to be affixed, pursuant to this regulation, to any video recording shall be affixed in such a manner that it is fully visible at all times, and shall

not be obscured by any other matter, or be altered or defaced in any way.”

(4) Regulation 15 (4) of the principal regulations is hereby amended—

(a) By inserting, after the word “recording”, the words “, or any slick,”;

(b) By inserting, after the word “spine” where it appears for the second time, the words “or slick”.

(5) Regulation 15 of the principal regulations is hereby amended by adding the following subclause:

“(7) Where—

“(a) Any video recording is offered for supply by way of sale only; and

“(b) That video recording has been imported into New Zealand already prepacked for sale; and

“(c) That video recording has had assigned to it the rating specified in regulation 9 (1) (a) of these regulations; and

“(d) The Secretary for Internal Affairs considers that compliance with all or any of the requirements of subclauses (2) and (2A) of this regulation would be impractical or unduly burdensome in respect of that video recording,—

the label issued under the Act in respect of that video recording shall be affixed to that video recording by such alternative method approved by the Secretary as will ensure that the rating assigned to that video recording is brought to the attention of purchasers of that video recording.”

12. Running-time to be notified to Authority—The principal regulations are hereby amended by inserting, after regulation 18, the following regulation:

“18A. Where, under section 15 of the Act, the labelling body submits a video recording to the Authority, the labelling body shall supply to the Authority a statement specifying the running-time of—

“(a) The main feature on that video recording; and

“(b) Every trailer on that video recording.”

13. Payment of fees—Regulation 21 (2) of the principal regulations is hereby amended by inserting, after the word “monthly”, the words “, weekly, or other periodic”.

14. New regulations inserted—The principal regulations are hereby amended by inserting, after regulation 21, the following headings and regulations:

“Register of Video Recordings

“21A. Register of Video Recordings—(1) The Register of Video Recordings required to be kept under section 28 of the Act shall contain the following particulars in respect of each video recording examined by the Authority or the Board of Review:

“(a) The name of the person or Court submitting or referring the video recording to the Authority for examination or, as the case may be, to the Board of Review for review:

“(b) Where the video recording is submitted to the Authority by the labelling body under section 15 of the Act, the name of the person who applied to the labelling body for the issue of a label in respect of the video recording:

“(c) The number of the submission:

- “(d) The title of—
 - “(i) The main feature on the video recording; and
 - “(ii) Every trailer on the video recording;
 - “(e) The name of the director of the main feature on the video recording;
 - “(f) The running-time of—
 - “(i) The main feature on the video recording; and
 - “(ii) Every trailer on the video recording;
 - “(g) The date of the decision of the Authority or the Board of Review in respect of the video recording, and, where, in accordance with section 24 (3) or (5) of the Act, the Authority or the Board of Review classifies the video recording as if certain excisions or alterations had been made to that video recording, or where the Authority or the Board of Review classifies the video recording as a restricted video recording, the reasons for the decision;
 - “(h) Such other particulars as the Authority or the Board of Review considers necessary or desirable.
- “(2) The particulars required by subclause (1) of this regulation to be entered in the Register in respect of a video recording are in addition to the matters required by paragraphs (a) and (b) of subsection (2) of section 28 of the Act to be entered in respect of that video recording.

“List of Decisions

“21B. **List of decisions**—Every list of decisions produced pursuant to section 28A of the Act shall contain, in addition to the matters required to be included by subsection (2) (b) of that section, the following matters in respect of each video recording listed in it:

- “(a) The name of the person or Court submitting or referring the video recording to the Authority for examination or, as the case may be, to the Board of Review for review;
- “(b) Where the video recording is submitted to the Authority by the labelling body under section 15 of the Act, the name of the person who applied to the labelling body for the issue of a label in respect of the video recording;
- “(c) The title of—
 - “(i) The main feature on the video recording; and
 - “(ii) Every trailer on the video recording;
- “(d) The name of the director of the main feature on the video recording;
- “(e) The running-time of—
 - “(i) The main feature on the video recording; and
 - “(ii) Every trailer on the video recording;
- “(f) The decision and classification made by the Authority in respect of that video recording;
- “(g) The date of the entry in the Register of the Authority’s or, as the case may be, the Board of Review’s decision;
- “(h) Where, in accordance with section 24 (3) or (5) of the Act, the Authority or the Board of Review classifies the video recording as if certain excisions or alterations had been made, or where the Authority or the Board of Review classifies the video recording as a restricted video recording, the reasons for that decision:

“(i) Such other particulars as the Authority or the Board of Review considers necessary or desirable, being particulars that have been entered in respect of the video recording in the Register.”

15. Labelling body to give notice of ratings, etc.—Regulation 22 of the principal regulations is hereby amended by adding the following subclauses:

“(3) Where, pursuant to this regulation, the labelling body is required to supply to any person a copy of any notice required by subclause (1) of this regulation, the labelling body may charge that person a fee for supplying that copy.

“(4) Any fee charged under subclause (3) of this regulation for the supply to any person of a copy of any notice shall be no more than is reasonably required to recover the cost to the labelling body of making and supplying that copy.”

16. Explanatory material to be displayed in video recording outlets—Regulation 23 of the principal regulations is hereby amended by revoking subclauses (3) and (4), and substituting the following subclause:

“(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who, being the occupier of premises (other than a private residence) where video recordings are supplied or offered for supply to members of the public,—

“(a) Fails without reasonable excuse to display the notice required by subclause (1) of this regulation; or

“(b) Without reasonable excuse displays any such notice otherwise than in accordance with the requirements of subclause (2) of this regulation.”

17. Notice of classification or rating in advertising material—The principal regulations are hereby amended by inserting, after regulation 23, the following regulation:

“23A. (1) Where any advertising material (including catalogues, and radio and television advertising) advertises any video recording as being available for supply, the publisher or broadcaster of that advertising material shall include in that advertising material a reference to—

“(a) The rating assigned to that video recording or, as the case may be, the classification given to that video recording; and

“(b) The description (if any) assigned to that video recording.

“(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who, being the publisher or broadcaster of any advertising material, fails, without reasonable excuse, to comply with the requirements of subclause (1) of this regulation.”

18. Second Schedule amended—(1) The principal regulations are hereby amended by inserting in clause 1 of the Second Schedule (as substituted by regulation 3 of the Video Recordings Regulations 1987, Amendment No. 1), after the word “Act”, the words “(other than an application to which clause 1A of this Schedule applies)”.

(2) The Second Schedule to the principal regulations (as so substituted) is hereby amended by inserting, after clause 1, the item set out in the Schedule to these regulations.

SCHEDULE

Reg. 18 (2)

ITEM INSERTED IN SECOND SCHEDULE TO PRINCIPAL REGULATIONS

“1A. Application under section 15 of the Act in respect of a video recording that has been classified under section 15 (1) of the Films Act 1983 as approved for exhibition only to persons of or over a specified age (the specified age being an age that is 16 years or more) and that has been supplied or offered for supply before the 17th day of July 1990, where the application is made before the 1st day of October 1990 281.25”

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Video Recordings Regulations 1987. The regulations come into force on 1 October 1990, with 2 exceptions. *Regulation 14* comes into force on 1 November 1990, and *regulation 18* on 1 September 1990.

The principal amendments made by these regulations are as follows:

- (a) *Regulation 4* inserts a new *regulation 3A* into the principal regulations. The new regulation requires applicants for the issue of a label in respect of a video recording to supply a statement specifying the running-time of the main feature, and of every trailer, on that video recording.
- (b) *Regulation 9* inserts a new *regulation 8A* into the principal regulations. The effect of the new regulation is to add a further circumstance in which the labelling body may not assign a rating to a video recording but must refer it to the Video Recordings Authority. At present, the labelling body considers only the main feature on a video recording for the purpose of determining whether or not it may issue a label. The new *regulation 8A* requires the labelling body to consider, in addition, every trailer (a short item usually advertising another video recording or film) on that video recording, and decide whether or not the trailer is consistent in character with the main feature. If it is not, the video recording must be referred to the Authority.

Regulation 3 inserts into the principal regulations a new *regulation 2A*, which defines the circumstances when a trailer is consistent with the main feature on a video recording.

Regulations 2, 5, 6, 7, and 8 make consequential amendments to regulations 2, 4, 6, 7, and 8 of the principal regulations:

- (c) *Regulation 10* amends regulation 14 (2) of the principal regulations. That regulation provides for the issue of additional labels for affixing to copies of a video recording in respect of which a label has been issued. At present additional labels may be issued if the main feature on the original video recording and the copies is identical. The effect of the amendment is to require the original video recording and the copies to be identical in every respect (in particular with respect to any trailers included);
- (d) *Regulation 11* amends regulation 15 of the principal regulations.

The principal amendment is the insertion of a new *subclause (2A)*, which makes special provision for the affixing of labels to “slicks”, (i.e., leaflets or notices inserted or affixed to the display cases customarily displayed in video recording outlets).

In addition, a new *subclause (7)* is inserted, which allows the Secretary for Internal Affairs to approve alternative methods of affixing labels to video recordings that are

imported into New Zealand already prepackaged for sale and are offered for supply by way of sale only:

- (e) *Regulation 12* inserts a new *regulation 18A* into the principal regulations. The new regulation requires the labelling body, where it submits a video recording to the Video Recordings Authority, to supply a statement specifying the running-time of the main feature, and of every trailer, on that video recording:
- (f) *Regulation 14* inserts new *regulations 21A and 21B* into the principal regulations. The new regulations set out the particulars that are to be included in the Register of Video Recordings kept pursuant to section 28 of the Video Recordings Act 1987, and in every list of decisions published pursuant to section 28A of that Act:
- (g) *Regulation 15* amends regulation 22 of the principal regulations. The effect of the amendment is to empower the labelling body to impose a charge for the supply of copies of notices publicising its decisions:
- (h) *Regulation 17* inserts a new *regulation 23A* into the principal regulations. The new regulation, which replaces the existing regulation 23 (3), requires the publisher or broadcaster of advertising material to include a reference to the rating or classification, and any description, given to any video recording that is advertised in that material:
- (i) *Regulation 18* amends the Second Schedule to the principal regulations. The effect of the amendment is to prescribe a new reduced fee in respect of the submission to the Authority of video recordings that have already been classified under the Films Act 1983 as R16 or above, and were publicly available before 17 July 1990. As from that date, the Video Recordings Act 1987 (as amended by section 2 (3) of the Video Recordings Amendment Act 1990) requires such video recordings to be labelled where they are offered for sale, hire, exchange, or loan to the public, or advertised as being publicly available. The reduced fee will apply only to video recordings submitted to the Authority before 1 October 1990.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 30 August 1990.

These regulations are administered in the Department of Internal Affairs.