

# **BRITISH BOARD OF FILM CLASSIFICATION (ACCOUNTABILITY TO PARLIAMENT AND APPEALS) BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes refer to the British Board of Film Classification (Accountability to Parliament and Appeals) Bill as introduced in the House of Commons on 5th December 2007. They have been prepared by Mr Julian Brazier, the Member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The Notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

### **COMMENTARY ON CLAUSES**

#### **Clause 1: Parliamentary scrutiny of appointments to the BBFC**

3. This clause amends the Video Recordings Act 1984 (the 1984 Act) by inserting new subsections (2A) to (2D) in section 4 requiring appointments to fill vacancies in any of the principal offices of the designated licensing authority (the BBFC) to be subject to approval by the House of Commons Home Affairs Select Committee. The new subsections achieve this by placing a duty on the BBFC to submit to the Committee a list of at least three persons it considers qualified for appointment to fill any vacancy and by stipulating that the Secretary of State must not confirm the appointment of any person in respect of whom the Committee has signified its view that he or she is not an appropriate person to fill the vacancy. The procedure laid down in the new subsections (2A) and (2C) is to be followed before the instigation of the Parliamentary designation procedure under section 5 of the 1984 Act. Subsection (3) applies the scrutiny procedure to any body which may succeed the BBFC.

**Clause 2: Establishment of a body to hear appeals or reviews of decisions of the BBFC**

4. This clause inserts new sections 4ZA to 4ZC in the 1984 Act, the purpose of which is to create a new body to consider appeals against, or reviews of, classification decisions by the BBFC. New section 4ZA requires the BBFC to establish the new body (the appeals body), which is to be composed of a panel of independent persons from whom a jury of 12 is selected at random for the hearing of each appeal or review. “Independent” in this context is defined as having no financial or other personal interest in the video or film industry.

5. In order to maintain the independence of a jury member, he or she must not act in any hearing if there is a conflict of interest. And members of the appeals body must not remain on the list of potential jury members for longer than five years. The reason for this time limit is to avoid any desensitising as a result of repeated exposure to video work of differing suitability. In considering appeals or reviews, the chairman and the jury are to have special regard to public concern about violence and the sexualisation of children.

6. New section 4ZA also provides that jury members will receive reasonable expenses for their attendance, but no other payments. Decisions of the jury on the suitability of a video work are to be reached by majority vote, with the chairman exercising a casting vote in the event of a tie. The results of all appeals and reviews heard by the new body are to be recorded in the BBFC’s annual report.

7. New section 4ZB introduces a mechanism whereby, if an Early Day Motion in the House of Commons is signed by at least 50 Members calling for a review of a relevant decision by the BBFC, the decision in question stands referred to the new appeal body. In that event the appeals body must conduct the review according to the same procedure as it follows in relation to appeals heard under new section 4ZA. A relevant decision for the purposes of the new review mechanism means either a substantive decision about the classification of a video work or a decision about the process adopted by the BBFC.

8. New section 4ZC empowers the Secretary of State, by order, to create a mechanism, similar to that established by new section 4ZB to enable a review of the classification of an existing video work to be triggered by an Early Day Motion signed by at least 50 Members of the House of Commons. Any such order must provide for the sale, supply and distribution of a video which is the subject of a review under new subsection 4ZC to be suspended pending the outcome of the review if the Secretary of State considers it likely that such a video work may not be considered suitable for classification.

**Clause 3: Parliamentary scrutiny of BBFC guidelines**

9. Clause 3 inserts a new section 4ZD in the 1984 Act, the effect of which is to require the BBFC, once in every Parliament, to submit its guidelines relating to the classification of videos to the Home Affairs Committee for approval. The Committee's approval is necessary both for the continuation in force of the guidelines in an unamended form and for any revisions proposed by the BBFC.

**Clause 4: Increase in penalties for offences**

10. This clause amends the 1984 Act so as to increase the penalties for various offences under the Act.

**Clause 5: Interpretation**

11. This clause defines the term "suitability" in relation to a video work as meaning suitability for the issue of a classification or certificate of a particular description. The clause also provides that any reference to the Home Affairs Committee is to be taken as a reference to a Committee established under a different name with substantially the same functions.

**Clause 6: Commencement**

12. This clause allows the Secretary of State discretion to bring the Act into force as he thinks fit, including setting different commencement dates for different sections. It also enables him to make such transitional or consequential provision, including amendments to other Acts or statutory instruments, as he considers necessary to bring the provisions of the Act into operation.

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*These notes refer to the British Board of Film Classification (Accountability  
to Parliament and Appeals) Bill  
as introduced in the House of Commons on 5th December 2007 [Bill 16]*

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