

Island of  Guernsey

Ordinance of the States **XIV**
1987

Made 27th May, 1987.
Came Into Operation ... 27th May, 1987.

**The Video Licensing (Guernsey)
Ordinance, 1987**

ARRANGEMENT OF SECTIONS

Section

1. Prohibition on supply of video works without a licence.
2. Application for video licences.
3. Production of books, accounts etc. to the Authority.
4. Factors to be taken into account on an application for a video licence.
5. Grant for refusal of video licence.
6. Conditions to which video licence subject.
7. Notification of decisions of the Authority.
8. Period of validity of licences.
9. Renewal of licences.
10. Annual review of licences.

11. Revocation, suspension and variation of licences.
12. Examination of premises.
13. Service of notices.
14. Appeals.
15. Offences.
16. Offences by bodies corporate.
17. Penalties.
18. Interpretation.
19. Citation.

The Video Licensing (Guernsey) Ordinance, 1987

THE STATES, in pursuance of their Resolution of the 6th day of August, 1986, and in exercise of the powers conferred upon them by section 3 of the Video Licensing (Guernsey) Law, 1985(a) hereby order:—

1. Subject to the succeeding provisions of this Ordinance, a person shall not on or after the 1st October, 1987, operate a business of offering to supply video works other than exempted works otherwise than under and in accordance with a licence (hereinafter referred to as “a video licence”) granted by the Authority under the provisions of section 5 of this Ordinance.

Prohibition on supply of video works without a licence.

2. (1) A person desirous of obtaining a video licence shall make application in that behalf to the Authority and such application shall be in such form and shall be accompanied by such information as the Authority may, from time to time, require.

Application for video licences.

(2) Upon receipt of an application under the provisions of the last preceding subsection or at any time thereafter, whether before or after the grant of a video licence, the Authority may require an applicant to supply the Authority with such information, in addition to any information supplied in accordance with the provisions of the last preceding subsection, as the Authority may require.

3. (1) Any person having in his possession or control any book, account, balance sheet, receipt or other document relating to the operation of a video business shall, on receipt of a notice in that behalf

Production of books, accounts etc. to the Authority.

(a) Ordres en Conseil No. XIII of 1985.

signed by the President or Vice-President of the Authority, produce such book, account, balance sheet, receipt or other document as shall be specified in the notice for examination by the Authority for the purposes of the exercise of its powers under this Ordinance.

(2) If any person refuses to produce to the Authority any book, account, balance sheet, receipt or other document under the provisions of subsection (1) of this section he shall be guilty of an offence and liable, on conviction, to a fine not exceeding £200.

(3) Information relating to the income of any person or the profits of any video business disclosed to the Authority in pursuance of subsection 1 of this section shall not be further disclosed except—

(a) to any person for the time being authorised to carry out any duties in connection with the operation of this Ordinance; or

(b) for the purposes of civil or criminal proceedings in connection with the operation of this Ordinance.

(4) If any person discloses any information in contravention of the provisions of subsection (3) of this section he shall be guilty of an offence and liable, on conviction, to a fine not exceeding £200 or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

4. The Authority shall, in considering whether or not to grant an application for a video licence under the provisions of section 5 take into account the following factors:—

Factors to be taken into account on an application for a video licence.

- (a) the age and character of the applicant;
- (b) the suitability of the premises (including any vehicles) to be used for the purpose of the business, as regards location, size, layout, access and parking arrangements;
- (c) the views of the Constables and Douzaine of the Parish or Parishes in which the premises are situated, or in which any vehicles are to operate, with particular reference to the location of the premises and, where appropriate, the effect on traffic in the area.

5. Upon receipt of an application under the provisions of section 2 of this Ordinance, the Authority may either—

Grant or refusal of video licence.

- (a) grant to the applicant a video licence; or
- (b) refuse to grant to the applicant a video licence.

6. (1) Subject to subsection (2) below, a video licence granted in pursuance of section 5 of this Ordinance shall be exercised in accordance with the following conditions:—

Conditions to which a video licence is subject.

- (a) that the video business shall be operated in a satisfactory manner, acceptable both to the Authority and to the general public;

- (b) that the video business shall deal only in such video works as have been classified under the Video Recordings Act 1984 or identified in that Act as exempt from classification;
- (c) that each category of video works shall be segregated from the other;
- (d) that the meaning of the coding used to identify the age groups for which the various categories of video works are intended shall be indicated clearly and prominently;
- (e) that a description of the content and nature of the video work is indicated clearly to all customers;
- (f) that all reasonable steps shall be taken to ensure that children and young persons are not permitted to have access to video works classified as suitable only for older audiences;
- (g) that counterfeit or pirated video works are not supplied;
- (h) that obscene video works are not supplied.

(2) The operation of a business in respect of which a video licence has been granted in pursuance of section 5 of this Ordinance, may be made subject to such additional conditions as the Authority may deem to be necessary or expedient.

Notification
of decisions
of the
Authority,

7. Notice of any decision of the Authority shall be in writing and shall be served on the applicant as soon as practicable, and where the Authority

refuses to grant or revokes a video licence, notice of such refusal or revocation shall include a statement of the reasons therefor and be signed by the President of the Authority or any other member of the Authority authorised in that behalf by the Authority and shall be served as soon as practicable on the applicant for the video licence or the holder of the video licence, as the case may be.

8. Unless suspended or revoked under any of the provisions of this Ordinance, a video licence shall be valid until the 31st day of December next following the date of issue of such licence:

Period of validity of licences.

Provided that the Authority may grant a temporary video licence for a specified period of less than one year in any case in which the Authority considers it appropriate to do so.

9. (1) If the Authority is satisfied as to the manner in which a video business has been operated during the period of validity of a video licence, that video licence, unless suspended or revoked under this Ordinance, shall be renewed for the following year upon an application being made to it in that behalf before the date of expiry of the aforesaid video licence, and accompanied by the relevant fee as provided for by section 10(2) of this Ordinance.

Renewal of licences.

(2) The provisions of this Ordinance with respect to an application for a video licence under section 2 of this Ordinance, to the factors to be taken into account when considering an application for a video licence under section 4 of this Ordinance, to the grant or refusal of a video licence under section 5 of this Ordinance, to the conditions to which a video licence is subject under section 6 of this Ordinance and to notices of refusal of video licences

under section 7 of this Ordinance shall apply to an application for the renewal of a video licence under the provisions of the last preceding subsection.

Fees for licences.

10. (1) There shall be paid to the Treasurer of the States in respect of the grant of a video licence a fee of £25 such monies to be enclosed with the application for a video licence and if such application be refused £10 shall be repaid to the applicant as soon as practicable.

(2) In respect of the renewal of a video licence there shall be paid to the Treasurer of the States a fee of £10 payable before the current video licence expires.

Revocation, suspension and variation of licences.

11. (1) The Authority may at any time revoke, suspend or vary a video licence and shall do so if, in the opinion of the Authority, the video licence holder has failed to comply with the conditions of his video licence or to have acted in a manner which would justify the Authority in taking such action.

(2) The power vested in the Authority under the provisions of the last preceding subsection to suspend a licence shall include a power to specify the period for which suspension is to have effect.

(3) The power vested in the Authority under the provisions of subsection (1) above to vary a video licence shall include a power to vary any conditions attached to such video licence.

(4) If the holder of a video licence is convicted of an offence under the provisions of this Ordinance, the Obscene Publications (Bailiwick of Guernsey)

Law, 1985(b), or the Protection of Children (Bailiwick of Guernsey) Law, 1985(c) any video licence which has not been revoked may be revoked forthwith.

12. Where an application has been made for a video licence under section 2 of this Ordinance or where a video licence has been granted under section 5 of this Ordinance the Authority or any person authorised by the Authority shall be empowered at any time during normal business hours to enter upon and inspect the premises which are the subject of the application or video licence, as the case may be.

Examination
of premises.

13. Any notice which may be served for the purposes of this Ordinance shall be validly served on any person, if delivered to him, left, or sent by registered post or recorded delivery service to him, at his usual or last known place of abode.

Service of
notices.

14. (1) Any person aggrieved by any decision of the Authority to refuse the grant or renewal of a video licence, or the suspension or revocation of such licence, or if the holder of a licence considers that the conditions to which a video licence has been made subject are unreasonable, may appeal to the Royal Court sitting as a Full Court on the grounds that the decision of the Authority was ultra vires or an unreasonable exercise of its powers.

Appeals.

(2) An appeal under the last preceding subsection shall be instituted by way of summons served on the President of the Authority and such summons shall set out the material facts upon which the appellant relies.

(b) Ordres en Conseil No. XI of 1985.
(c) Ordres en Conseil No. XII of 1985.

Offences.

15. Any person who contravenes or fails to comply with any of the provisions of this Ordinance or any conditions attached to a video licence granted hereunder or who, in connection with any application for the grant of a video licence knowingly makes any false statement or recklessly makes any statement which is false in a material particular, shall, notwithstanding any other action that may be taken against him by the Authority, be guilty of an offence.

Offences by bodies corporate.

16. Where an offence under this Ordinance which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence 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 deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Penalties.

17. (1) Any person who is found guilty of an offence under section 1 of this Ordinance shall be liable, on conviction, to a fine not exceeding £20,000.

(2) Any person who is found guilty of any other offence under this Ordinance other than an offence under section 3(2) or 3(4) shall be liable, on conviction, to a fine not exceeding £1,000.

Interpretation.

18. (1) In this Ordinance, unless the context otherwise requires—

“exempted work” means a video work which, if taken as a whole,

(a) is designed to inform, educate or instruct; or

(b) is concerned with sport, religion or music;

but a video work is not an exempted work if, to any significant extent, it depicts—

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

or is designed to any significant extent to stimulate or encourage anything falling within paragraph (i) above, or, in the case of anything falling within paragraph (ii) above, is designed to any extent to do so;

“pirated” means a video work the making of which constituted an infringement of the copyright in the work or, in the case of an imported video work, would have constituted an infringement of copyright if the video work had been made in the place into which it was imported;

“premises” includes any vehicle, vessel or stall;

“the principal Law” means the Video Licensing (Guernsey) Law, 1985;

and any other expressions have the same meaning as in the principal Law.

(2) Except where the context otherwise requires, any reference in this Ordinance to any other enactment shall be construed as including a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment including this Ordinance.

Citation. 19. This Ordinance may be cited as the Video Licensing (Guernsey) Ordinance, 1987.

K. H. TOUGH,
Her Majesty's Greffier.

**Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey.**

PRICE 60p