

~~GENCENSORED~~

NATIONAL CAMPAIGN FOR THE REFORM  
OF THE OBSCENE PUBLICATIONS ACTS

N C R O P A

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**FIGHTING SEXUAL CENSORSHIP**

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1st June 1993

To: W D Creer, Chief Executive,  
Dept of Home Affairs,  
Homefield, 88 Woodbourne Rd  
Douglas, Isle of Man, IM2 3AP  
Your Ref: HAB 40

Fax: 0624-621298.

Dear Mr Creer,

RE; VIDEO RECORDINGS BILL

Further to our comments on the similar British Video Recordings Act, which we sent you <sup>on 24th May</sup>, we now set out below, our comments on the Isle of Man Bill, which appears to suffer from the fact that <sup>it</sup> is exclusively based on English law, ignoring the practice and experience of other member states of the European Community.

Sec 1 (2). This is unacceptable because it reverses the burden of proof, which is against the rule of law and the European Convention on Human Rights. It should be for the prosecution to prove that the video work is not an exempted supply or work.

Sec 2 (2) The reversal of the burden of proof is unacceptable. The prosecution should prove absence of reasonable grounds

Sec 3 (2) The burden of proof should be on the prosecution, not defence.

Sec 4 Measures must be included to ensure that there is a sufficient number of the type of shop to which the subsection refers. Otherwise there is a risk of the English situation arising, where over half the local authorities have refused to grant sex shop licences thereby transforming the "18R" certificate into an effective ban on sales in half the country. To try and remedy this the British Board of Film Classification wrote to the Home Office, only to be informed that the relevant legislation on sex-shop licences would not be changed. ie The local Government (Miscellaneous Provisions) Act 1982.

Sec 4 (2) & (4) There should not be a reversal of the burden of proof.

Sec 5 (2) There should not be a reversal of the burden of proof.

Sec 6 (2) & (4) There should be no reversal of the burden of proof.

Sec 7 (2) should be deleted. There should be no power of "agent provocateur" activity. Action should only be taken in response to complaints.

Sec 10 This is far too wide and disregards the fact that a body corporate is a legal person in its own right. Individuals could be charged in their own right as individuals if appropriate, not as agents of a corporation.

Sec 11. The Board should be obliged to issue some sort of certificate and should not be empowered to charge prohibitively high fees for so doing. This will avoid the risk of the Board becoming a censoring instrument of tyranny, as has happened with the British Board of Film Classification.

Sec 12 The penalties are too severe for what is objectively a victimless crime.

Sec 14 (1) There should be added a category covering promotional video works and also video recordings of classical works. This will avoid the unfortunate situation which pertains in England where video recordings of Moliere's plays cannot be sold because they are not exempt and their low sales make it uneconomical for the classification fees to be paid.

Sec 14 (2) This should be deleted because it is illogical to proscribe sex and violence, especially the former. The law should not pander to the Grundyist British hang-up about sex at the expense of freedom of expression.

Sec 15 (2) Promotional video works should also be exempted.

Sec 115 (5) (c) This should be deleted for the same reason as subsection 14 (2) itself.

Sec 15 (9) The supply of all educational video recordings should be an exempted supply. Other professions are just as important as medicine (eg law).

Yours sincerely,

E. Goodman PP. NCROPA.