



AN BILLE UM FHÍSTAIFEADTAÍ, 1987

VIDEO RECORDINGS BILL, 1987

Mar a ritheadh ag Seanad Éireann

As passed by Seanad Éireann

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of Bill

1. The purpose of the Bill is to regulate, subject to certain exceptions, the sale, hire and supply of video recordings otherwise than in accordance with an authorisation, in the form of a "supply certificate", issued by the Official Censor of Films. The Official Censor will be obliged to issue the certificate, on application, unless the video work concerned is in his opinion unfit for viewing for a reason defined in the Bill (*section 3*); and he will also be empowered to make a "prohibition order" prohibiting the supply of video recordings on similar grounds (*section 6*). An appeal will lie to the Censorship of Films Appeal Board against a refusal of a supply certificate or the making of a prohibition order (*section 9*). There are also provisions for prohibiting or restricting the exhibition (*section 10*) or importation (*section 15*) of video recordings of video works such as mentioned. In addition, the Bill provides for the granting of wholesale and retail licences by the Official Censor to persons engaged in selling and/or letting on hire of video recordings (*section 17*). Owing to the quantity of video recordings available at present the provisions as to the need to obtain a supply certificate will be brought into force by stages in accordance with orders by the Minister for Justice under *section 34*.

2. The Censorship of Films Appeal Board will in future have to have at least one member of each sex (*section 29*).

Financial and staffing implications

3. Any additional personnel required under the Bill will be attached to the office of the Official Censor of Films and will be provided by way of redeployment from existing staffing resources. It is estimated that five additional administrative and clerical staff will be required as well as three Assistant Censors or their equivalent employed on a part-time basis. As well as staff costs there will be additional expenditure on equipment such as video recorders and office machinery. Such expenditure should not exceed £20,000.

4. It is estimated that the additional annual cost of operating the Official Censor's expanded office will be approximately £200,000. It is not possible to state at present what the level of cost will be in the first or second year of operation of the Act, or the number of years before full cost is reached. The build-up to full cost will depend

on how quickly the various provisions of the Act are brought into operation. All additional costs will be recovered by the charging of fees in respect of (a) video films submitted to the Official Censor for his authorisation to supply them and (b) wholesale and retail licences for persons engaged in selling and/or letting on hire of video recordings. Accordingly there will not be any additional net cost to the Exchequer.

Existing law

5. There is no law at present relating specifically to the supply or exhibition of video films. Importation of indecent or obscene video films is subject to the Customs Acts, and the display of a video film in public is subject to the Censorship of Films Acts, 1923 to 1970. The showing in public of a pornographic video film is capable of amounting to an indecent exhibition and therefore an offence contrary to common law.

Section 1 (Interpretation)

6. Most of the definitions are for the purpose of saving repetition in the main body of the Bill. The important definitions are explained in the other paragraphs (7 to 10) below relating to *section 1 (1)* except that the definition of "exempted supply" is explained under *section 2*, where the expression is defined, and that of "exempted work" is explained under *section 3* (paragraph 28).

7. The expressions "video work" and "video recording" relate respectively to the picture shown and the disc or tape by means of which it is shown.

8. A "video work" is defined as "any series of visual images (whether with or without sound) produced, whether electronically or by other means, by the use of information contained on any disc or magnetic tape and shown as a moving picture". The word "series" is important, because it will have the effect that a video recording may contain more than one video work for the purposes of the Bill; for example, a video recording comprising a trailer for one production followed by a full length version of a different production will be treated as containing two video works. A series of visual images not shown as a moving picture (for example, still images produced for advertisement) will not be a video work for the purposes of the Bill.

9. The expression "video recording" is defined as "any disc or magnetic tape containing information by the use of which the whole or a part of a video work may be produced". The most common form of video recording is video tape. This is a strip of magnetic material on which the information is recorded and from which it is produced by means of the display apparatus. Video discs at present on the market operate in various ways, but all of them enable visual images to be produced electronically by means of information stored in the disc. (The use of the expression "electronically or by other means" (in *paragraph (a)* of the definition of "video work") will allow for the possibility that a disc or magnetic tape might be produced that would operate otherwise than electronically.)

10. The expression "supply" (which relates mainly to the offences under the Bill consisting of supplying or offering to supply a video recording or possessing it for the purpose of supply) is defined as meaning "supply in any manner, whether or not for reward" and, therefore, as including "supply by way of sale, letting on hire, exchange or loan". This includes supply by way of gift, with the result that, for example, a promotional gift will be covered. But owing to the definition of "exempted supply" in *section 2* many cases of supplying will be excluded from the controls under the Bill; these will

include supplies that are neither for reward nor in the course or furtherance of a business. (The expression "business" is defined as including the activities of a club (except for the purpose of two provisions in *section 3* and one provision in *section 18* which apply only to businesses in the ordinary sense), so that, if, for example, a club supplies video recordings to its members even free of charge, this will be subject to the controls under the Bill.)

11. *Subsection (2)* defines the idea as to when a video recording "contains" a video work. This will be the case where the video recording enables the whole or a part of the work to be produced. But the subsection also makes it clear that, if video work A includes an extract from video work B (and if, for example, video work B is unobjectionable and so is an exempted work but video work A includes pornographic matter), each of the video works will be treated for the purposes of the Bill according to its actual contents and video work B will not lose its exemption by reason of the fact that the extract from it can be produced by means of a video recording containing video work A.

12. *Subsection (3)* makes it clear that, when a supply certificate (under *section 3*) is in force in respect of a video work and an alteration or addition is made to the work, the supply certificate will not apply to the resulting work.

13. *Subsection (4)* makes it clear that the provisions of the Bill relating to selling or letting on hire etc. video recordings will apply also to offering to sell etc. or let on hire etc.

Section 2 (Exempted supplies)

14. This section defines the cases where the supply of a video recording will be exempt from the controls imposed by the Bill. The purpose of these exemptions, together with the exemptions comprised in the definition of "exempted work" in *section 1 (1)* (summarised in paragraph 28 below), is to keep to a minimum the burdens to be imposed on the video industry, the Official Censor of Films and the public by the controls introduced by the Bill.

15. *Subsection (1) (a)* provides that the supply of a video recording that is neither for reward nor in the course or furtherance of a business (or the activities of a club, as mentioned in paragraph 10) is an exempted supply. Therefore an ordinary gift of a video recording by a private individual to another, for example, will not count as a supply for the purpose of any of the offences related to supplying a video recording. (The exemption under *subsection (1) (a)* is subject to the qualification in *subsection (2)* referred to in paragraph 23 below.)

16. *Subsection (1) (b)* provides for certain cases of supply of video recordings that take place in the course of the video trade to be exempted supplies. It is common for a video work produced commercially to pass between several manufacturers and producers, each of whom may make changes to it, before it is ready for release to the public. *Paragraph (b)* is to secure that the transfer of a video recording from one person to another in the course of such transactions should be exempt. To qualify for exemption under the paragraph the supply must either not be made with a view to any further supply of the recording (*sub-paragraph (i)*) or not be made with a view to the eventual supply of the recording to a member of the public (other than the original supplier) (*sub-paragraph (ii)*). For example, *sub-paragraph (i)* will cover the case where the video recording is to be destroyed (with or without being copied), and *sub-paragraph (ii)* will cover the case where it is to be kept by one of the manufacturers or producers. *Sub-paragraph (ii)* will also cover the case where a person

(perhaps an amateur) makes a video recording of a video work and submits it to a producer with a view to its being used for the production of that or other video works and eventually returned to the maker. (The meaning of supply to the public, in relation to *sub-paragraph (ii)*, is provided for by *subsection (3)*, which is explained in paragraph 24 below.)

17. *Subsection (1) (c)* provides that the supply of a video recording of a video work designed only to provide a record of an event or occasion (for example, a wedding or an amateur dramatic performance) for the participants or persons connected with them shall be an exempted supply. But the exemption will be lost if the video work has any of the objectionable features specified in *section 3 (1) (a)* or *(b)*, referred to in paragraph 27 below.

18. *Subsection (1) (d)* provides that the supply of a video recording for the purpose only of enabling the video work concerned to be exhibited in public (in a cinema or otherwise) in accordance with a certificate by the Official Censor of Films shall be an exempted supply. (In this case the exhibition of the video work will require the Official Censor's certificate under the Censorship of Films Act, 1923 (No. 23).)

19. *Subsection (1) (e)* provides that the supply of a video recording with a view only to its use for broadcasting etc. in accordance with the relevant legislation shall be an exempted supply. (In this case the appropriate safeguards as to the contents of the video works that are to be broadcasted are provided by the relevant legislation.)

20. *Subsection (1) (f)* provides that the supply of a video recording for the purpose only of submitting the video work concerned to the Official Censor of Films in connection with an application for a supply certificate (under *section 3* of the Bill) or in connection with an appeal to the Appeal Board (under *section 9*) shall be an exempted supply.

21. *Subsection (1) (g)* provides that the supply of a video recording for the purpose only of its use in training for, or the carrying on of, a medical or related occupation etc. shall be an exempted supply.

22. *Subsection (1) (h)* provides that the supply of a video recording, otherwise than for reward, for the purpose only of supplying it to a person who previously made an exempted supply of the recording shall be an exempted supply. For example, this exemption will cover the case where a person submits a video recording to the Official Censor for the purpose of an application for a supply certificate and the Censor later sends the recording back to the applicant.

23. *Subsection (2)* gives an extended meaning to supply in the course or furtherance of a business for the purpose of *subsection (1) (a)*. It provides that, where on any premises facilities for supplying video recordings are provided in the course or furtherance of a business, the supply of a video recording on those premises is a supply in the course or furtherance of a business. Therefore if, for example, a business concern allows people to use its premises for the supply of video recordings, the supply will be treated as a supply in the course or furtherance of a business (so that, even if no charge is made by the concern or the people doing the supplying, the supply will not be exempt under *subsection (1) (a)*).

24. *Subsection (3)* defines supply to the public for the purpose of *subsection (1) (b)* (which is explained in paragraph 16 above). Stated shortly, a supply will be a supply to the public unless it is a supply within the trade (*paragraph (a)*), a supply which is an exempted supply under a relevant paragraph of *subsection (1) (paragraph (b))*.

or a supply outside the State (*paragraph (c)*). The kind of situation contemplated by *paragraph (c)* is where a video recording is made in the State for export only. A supply that takes place outside the State will of course not be covered by the Bill in any event, but *subsection (3) (c)* will ensure that the instances of supply that will have to take place in the State in order to enable the recording to be exported will be exempt. But the exemption under *paragraph (c)* will apply only if it is the *eventual* supply that is to be outside the State (this is because of *subsection (1) (b) (ii)*): if the recording is sent abroad for work to be done on it in another country and for it to be returned for sale in the State, a supply that takes place in the State in the course of the transaction will not be an exempted supply by reason only of *subsection (1) (b) (ii)* read with *subsection (3) (c)*.

Section 3 (Certification of video works)

25. This section contains the main provision for the scheme of the Bill under which the supply of video recordings will require the authorisation of the Official Censor of Films in the form of a "supply certificate" in respect of the video work or works contained in the video recording. The requirement is distinct from the power of the Official Censor to make a prohibition order under *section 6* prohibiting the supply of video recordings of particular video works (though the grounds for refusing a supply certificate and those for making a prohibition order will be the same): see *paragraph 37* below. Three matters should be noted in particular in relation to *section 3*. First, a supply certificate will not be required for a video recording of a video work that is an "exempted work" as defined in *section 1 (1)* (as to which see *paragraph 28* below). Second, the section does not require that the Official Censor should examine every video work before granting his certificate. In many cases he will be able to judge, from the title or his knowledge of the producer or otherwise, that the work is unobjectionable; but if it turns out that this is not the case, he will be able to make a prohibition order under *section 6*. Third, in the case of video recordings on the market when the Bill is passed, the requirement of a supply certificate will not arise until *section 3* is brought into operation in relation to video recordings of the dates in question by orders under *section 34*; but a prohibition order may be made in relation to a video work under *section 6* at any time after that section is brought into operation by an order under *section 34*.

26. *Subsection (1)* provides that the Official Censor shall, on application, grant a "supply certificate" declaring the video work to which the application relates to be "fit for viewing" unless in his opinion it is unfit for viewing on any of the grounds specified in the subsection. The effect of his granting the supply certificate will be that video recordings of the video work concerned may (subject to the provisions as to licensing) be sold or otherwise supplied.

27. The grounds for refusal of a supply certificate are set out in *paragraphs (a) and (b) of subsection (1)*. The first ground is that the viewing of the work would be likely to cause or encourage persons to commit crimes (for example, offences of violence or dishonesty, sexual offences or offences related to dangerous drugs) (*paragraph (a) (i)*). The second ground is that the viewing of the work would tend, by reason of the inclusion in it of any obscene or indecent matter, to deprave or corrupt persons who might view it (*paragraph (a) (ii)*). The third ground is that the work depicts acts of gross violence or cruelty towards humans or animals (*paragraph (b)*); the idea of gross violence or cruelty will include that of mutilation or torture. The third ground differs from the others in that it will apply irrespective of whether the viewing of the video work would be likely to have any particular effect on viewers. In all cases the existence of the ground will be a question for the Official Censor; and it will

be for him to determine, as a matter of discretion, whether the objectionable feature in question is sufficiently serious to justify a refusal of a certificate. (The Official Censor's decision will be subject to appeal to the Appeal Board under *section 9*.)

28. The requirement to obtain a supply certificate will, as mentioned in paragraph 25 above, not arise if the video work concerned is an "exempted work". This expression is defined in *section 1 (1)*. It means a video work that, "taken as a whole", "is designed to inform, educate or instruct" (*paragraph (a)*), "is concerned with religion, music or sport" (*paragraph (b)*) or "is a video game" (*paragraph (c)*); but the definition requires that the work concerned must not fall within a description specified in *section 3 (1) (a)* or *(b)* (as to which see paragraph 27 above). For example, this exception will ensure that a pornographic video work masquerading as sex education will not be entitled to exemption as being a work "designed to . . . educate". If the question arises in legal proceedings whether a video work is an exempted work, the question will of course fall to be decided by the court.

29. *Subsection (2)* provides that the Official Censor shall not refuse to grant a supply certificate in respect of a video work in respect of which a certificate (whether a general or a limited certificate) under the Censorship of Films Acts is in force.

30. *Subsection (3)* provides that, if the Official Censor considers that a supply certificate should not be granted in respect of a video work, he shall make a prohibition order under *section 6* in respect of the work (*paragraph (a)*). This provision is included for the sake of simplicity, because the conditions for the refusal of a supply certificate are the same as those for the making of a prohibition order and the consequences will be the same. *Paragraph (b)* requires the Official Censor to send a notification in writing to the applicant of his refusal to grant a supply certificate and of the making of the prohibition order.

31. *Subsection (4)* requires an applicant for a supply certificate to submit to the Official Censor a video recording of the video work concerned and such other information as the Official Censor may reasonably require. The applicant will also have to pay to the Official Censor the fee to be prescribed by the Minister for Justice by regulations (see the definition of "prescribed" in *section 1 (1)*), with the consent of the Minister for Finance.

Section 4 (Prohibition of supply of video recordings of uncertificated video works)

32. This section (read with *section 3*) contains the main provision of the Bill for prohibiting the supply of a video recording of a video work without a supply certificate by the Official Censor of Films under *section 3* in respect of a video work contained in the recording. (The provision in *section 4* corresponds to that in *section 7*, which prohibits the supply of a video recording of a video work in respect of which the Official Censor has made a prohibition order under *section 6*.) *Section 4* will of course (as mentioned in paragraph 1 above) not apply in relation to video recordings on the market when the Bill is passed until the necessary orders have been made by the Minister for Justice under *section 34* bringing the section into operation in relation to video recordings of the age in question.

33. *Subsection (1)* provides that a person who supplies or offers to supply a video recording containing a video work in respect of which a supply certificate (under *section 3*) is not in force shall be guilty of an offence unless the supply is, or would if it took place be, an

exempted supply (as defined in *section 2*) or the video work is an exempted work (as defined in *section 1 (1)* — see paragraphs 27 and 28 above).

34. *Subsection (2) (a)* provides that it shall be a defence to a charge of committing an offence under the section to prove that the accused believed on reasonable grounds that the video work concerned (or, if the video recording contained more than one video work to which the charge relates, each of the works) was an exempted work or that there was a supply certificate in force in respect of it. *Subsection (2) (b)* allows for a similar defence that the accused believed that the supply in question was or would have been an exempted supply by virtue of *section 2 (1) (b)* or *(c)*, which provisions are summarised in paragraphs 16 and 17 above. (The reason why the defence under *subsection (2) (b)* that the accused believed that the supply in question was or would have been an exempted supply is limited to where he believed that this was so by virtue of *paragraph (b)* or *(c)* of *section 2 (1)* is that in the case of any of the other classes of exempted supply the question of reasonable belief either would not arise or could not appropriately be made the subject of a defence of reasonable belief having regard to the situations envisaged.) In the case of these defences, as in the other cases where the Bill allows a defence that the accused believed on reasonable grounds in the existence of some exculpatory fact, the burden of proving the existence of the belief and of the reasonable grounds for it will (in accordance with the general rule where a persuasive burden of proof is imposed on the defence) be discharged if the accused proves *on a balance of probabilities* that he had the belief in question and had reasonable grounds for it: he will not be required to prove this *beyond reasonable doubt* (as is necessary in the case of burdens of proof on the prosecution).

35. *Subsection (3)* specifies the maximum penalties for an offence under the section — on summary conviction, a fine of £1,000 or 12 months' imprisonment or both; on conviction on indictment, a fine of any amount or 3 years' imprisonment or both.

Section 5 (Prohibition of possession of video recordings for supply contrary to section 4)

36. This section provides that a person who has in his possession for the purpose of supplying it a video recording containing a video work in respect of which a supply certificate under *section 3* is not in force shall be guilty of an offence subject to the same exceptions as in *section 4* (see paragraph 33 above). Similar defences as to reasonable belief are allowed as in *section 4* (see paragraph 34 above) and there will be an additional defence, under *section 5 (2) (c)*, that the accused did not intend to supply the video recording until a supply certificate was granted in respect of the video work concerned. The maximum penalties will be as in *section 4 (3)* (see paragraph 35 above).

Section 6 (Prohibition orders in respect of video works)

37. This section empowers the Official Censor of Films to make a "prohibition order" prohibiting the supply of video recordings of a video work if he is of opinion that the work is unfit for viewing for any of the same reasons as enable him to refuse a supply certificate under *section 3*. As mentioned in paragraph 25 above, the provision in *section 6* empowering the Official Censor to make a prohibition order is distinct from the requirement in *section 3* to obtain a supply certificate from him. The power under *section 6* will be exercisable as soon as that section is brought into operation by the order of the Minister for Justice under *section 34*, irrespective of the length of time that a video recording has been available.

38. *Subsection (1)* confers the power mentioned in paragraph 37 above on the Official Censor, including a provision that the power may be exercised even if a supply certificate is in force in respect of the video work concerned. The Official Censor will of course have to have examined a video recording containing the video work in question; in this respect the power differs from the power under *section 3* to grant a supply certificate, which power (as mentioned in paragraph 25 above) may in appropriate cases be exercised without examining the video work concerned. Otherwise *subsection (1)* is exactly similar *mutatis mutandis* to *section 3 (1)* and what was said in paragraph 27 above applies.

39. *Subsection (2)* provides that, if a prohibition order is made in respect of a video work and a supply certificate is in force in respect of the work, the supply certificate shall thereupon cease to have effect. This provision is included because the grounds for refusing a supply certificate are the same as those for making a prohibition order.

40. *Subsection (3)* provides that the Official Censor may revoke a prohibition order and that, if he does so, a supply certificate shall be deemed to be granted under *section 3* in respect of the video work concerned (without the need for an application for the certificate or the payment of a fee) on the date the revocation of the prohibition order takes effect (i.e. the date when a copy of it is published in *Iris Oifigiúil: subsection (4)*). The last provision is included for the same reason as in the converse case mentioned in paragraph 39 above.

41. *Subsection (4)* provides that the Official Censor shall cause a copy of a prohibition order, and of an order revoking a prohibition order, to be published in *Iris Oifigiúil* as soon as may be after its making and that the order shall come into operation upon the publication.

Section 7 (Prohibition of supply of video recordings of prohibited video works)

42. This section (read with *section 6*) contains the main provision of the Bill for prohibiting the supply, or offer to supply, of a video recording of a video work in respect of which a prohibition order made by the Official Censor under *section 6* is in force. As mentioned in paragraph 32 above, *section 7* corresponds to *section 4*. The offences under the two sections (and the maximum penalties) will be similar except that (i) in the case of the offence under *section 7* there can of course be no question of the video work's being an exempted work and (ii) in place of the defence under *section 4 (2) (a)* that the accused believed on reasonable grounds that a supply certificate was in force in respect of the video work concerned there will be a defence under *section 7 (2) (a)* that he believed on reasonable grounds that the work concerned was not one in respect of which a prohibition order was in force.

Section 8 (Prohibition of possession of video recordings for supply contrary to section 7)

43. This section provides that a person who has in his possession for the purpose of supplying it a video recording containing a video work in respect of which a prohibition order under *section 6* is in force shall be guilty of an offence subject to the same exception as to exempted supplies and to the same defences as to reasonable belief, and with the same maximum penalties, as in the case of supply contrary to *section 7* (see paragraph 42 above).

Section 9 (Appeal to Censorship of Films Appeal Board)

44. *Subsection (1)* enables any person aggrieved by a prohibition

order under *section 6* (including one made, in accordance with *section 3 (2) (a)*, in consequence of the refusal of a supply certificate (see paragraph 30 above)) to appeal to the Censorship of Films Appeal Board (established by *section 3* of the Censorship of Films Act, 1923 (No. 23)). The appeal will have to be brought not later than three months after the date of the publication of the copy of the prohibition order in *Iris Oifigiúil* as required by *section 6 (4)*. The manner of bringing the appeal will be prescribed by regulations made by the Minister for Justice under the Act. The Appeal Board will be able to affirm the decision of the Official Censor or revoke the prohibition order.

45. *Subsection (2) (a)* provides that the Official Censor shall, if requested by the Appeal Board, furnish to it a statement in writing of the reasons for the making of the prohibition order. By *subsection (2) (b)* any person will be able to obtain a copy of the statement from the Official Censor on payment of the fee prescribed by regulations under the Act.

46. *Subsection (3)* provides that the Appeal Board shall, as soon as may be, notify the Official Censor of its decision on the appeal and that, if the decision is to revoke the prohibition order concerned, the Official Censor shall, as soon as may be, grant a supply certificate in respect of the video work concerned under *section 3*. As in the case where the Censor himself revokes a prohibition order (see paragraph 40 above) there will be no need for an application for the certificate or the payment of a fee.

47. *Subsection (4)* provides that the Official Censor shall cause a copy of any order of the Appeal Board revoking a prohibition order to be published in *Iris Oifigiúil*.

48. *Subsection (5)* requires a person bringing an appeal under the section to pay to the Official Censor the fee to be prescribed by regulations.

Section 10 (Prohibition of exhibition of certain video works)

49. This section makes it an offence in certain circumstances to exhibit, or to cause or permit or be concerned in causing or permitting the exhibition of, a video work in respect of which a supply certificate under *section 3* is not in force or a prohibition order under *section 6* is in force. In so far as the section relates to exhibiting etc. a video work in respect of which a supply certificate is not in force the section will not come into operation until *section 3* is brought into operation by an order of the Minister for Justice under *section 34* in relation to video recordings of the age in question; nor will it apply to an exempted work as defined in *section 1 (1)* and explained in paragraph 28 above.

50. *Subsection (1)* specifies the circumstances in which, subject to the exceptions provided for by *subsection (2)*, the exhibition etc. of an uncertificated (*paragraph (a)*) or prohibited (*paragraph (b)*) video work will be an offence under the section. This will be the case if the viewing is elsewhere than in a private dwelling (*paragraph (i)*), in a private dwelling for reward (*paragraph (ii)*) or in a private dwelling by persons other than (a) the person exhibiting the video work, (b) the occupier of the private dwelling where the work is viewed or (c) members of the family or household, or bona fide guests, of the exhibitor or the occupier of the dwelling (*paragraph (iii)*). *Subsection (1)* also makes the provision referred to at the end of paragraph 49 above that the offence shall not apply to the exhibition of an uncertificated video work that is an exempted work; a prohibited video work cannot be an exempted work.

51. *Subsection (2)* makes two exceptions to the cases where the exhibition of an uncertificated or prohibited video work is an offence under *subsection (1)*. First, *paragraph (a)* provides that the offence will not be committed if the viewing of the video work is only by persons to whom a supply of a video recording containing the video work would be an exempted supply by virtue of any of the paragraphs of *section 2 (1)* of the Act (other than two paragraphs in the case of which the exception would be inappropriate). Second, *paragraph (b)* of *subsection (2)* of *section 10* provides that the offence will not be committed if the viewing is only to such limited extent as is in accordance with a permit by the Minister for Justice under *section 15 (3)* authorising the importation into the State of a video recording containing the prohibited work.

52. *Subsection (3)* provides for certain defences, based on reasonable belief, in the case of charges under the section. *Paragraph (a)* provides that in the case of a charge of an offence to which *subsection (1) (a)* applies (i.e. a charge involving an uncertificated video work) it shall be a defence to prove that the accused believed on reasonable grounds that the video work concerned was either an exempted work or a certificated work. *Paragraph (b) (i)* provides that in the case of a charge of an offence to which *subsection (1) (b)* applies (i.e. a charge involving a prohibited video work) it shall be a defence to prove that the accused believed on reasonable grounds that the work was not a prohibited work; and *paragraph (b) (ii)* provides that in the case of such a charge it shall be a defence to prove that the accused believed on reasonable grounds that the viewing concerned was only to such limited extent as was in accordance with an importation permit under *section 15 (3)* such as mentioned in paragraph 51 above. *Paragraph (c)* provides that in the case of any charge under the section it shall be a defence to prove that the accused believed on reasonable grounds that the persons viewing the video work concerned were persons to whom the supply of a video recording containing the work would be an exempted supply by virtue of *paragraph (b) or (c) of section 2 (1)*. The reason why the defence under *section 10 (3) (c)* applies only to where the accused believed that such a supply would have been an exempted supply by virtue of *paragraph (b) or (c) of section 2 (1)* is similar to that in the case of the defence under *section 4 (2) (b)* in relation to the offence of supplying etc. a video recording of an uncertificated video work and similar provisions (see paragraph 34 above). (In all these cases it will be sufficient to prove on a balance of probabilities that the accused had the belief in question.)

53. *Subsection (4)* provides that the offence shall be punishable on summary conviction with a maximum fine of £1,000.

Section 11 (Labelling, etc.)

54. This section provides that, where a supply certificate under *section 3* is in force in respect of a video work, certain requirements as to labelling etc. as prescribed by the Minister for Justice in relation to video recordings of the video work concerned shall be complied with. The label will serve to indicate that a supply certificate has been granted in respect of the video work contained in a video recording bearing the label. The requirements are set out in *subsection (1)*.

55. *Subsection (1) (a)* relates to the spool or other thing on which the recording is kept. It requires that the spool etc. shall have affixed to it a label in the form prescribed by regulations made by the Minister for Justice. The label will have to be obtained from the Official Censor of Films on payment of the prescribed fee. (If the video recording is of a kind such that the video work can be played without the removal of the recording from the case or other article in which it is enclosed,

the case or other article will by reason of *subsection (4)* count as being itself the spool for the purpose of the section; as a result the label referred to in *subsection (1) (a)* will have to be affixed to the case or other article mentioned above.

56. *Subsection (1) (b)* relates to the outer case or other thing enclosing the spool (or enclosing the article that counts as the spool in accordance with *subsection (4)* as mentioned in paragraph 55 above). *Subsection (1) (b)* requires that this outer case etc. shall contain such indication (if any) as may be prescribed by the regulations of the contents of the label (e.g. its serial number) that is required by *subsection (1) (a)* to be affixed to the spool etc. as mentioned in paragraph 55 above.

57. *Subsection (1) (c)* provides that such indication (if any) as may be prescribed by regulations of the contents of the label referred to in *paragraphs (a)* and *(b)* shall be included in the video recording (e.g. by a photographic reproduction of the label which would be shown with the video work on the screen).

58. *Subsection (2)* provides that a person who supplies or offers to supply, or has in his possession for the purpose of supplying it, a video recording, or a spool, case or other thing on or in which it is kept, that is not in compliance with *subsection (1)* shall be guilty of an offence unless the supply is, or would if it took place be, an exempted supply or the video work concerned is an exempted work. The ways in which a recording etc. may be not in compliance with *subsection (1)* will include a case where the indication includes a false statement; but the offence in this respect is distinct from the more serious offence under *section 12* which is committed where there is no supply certificate in force and it is falsely indicated that there is one.

59. *Subsection (3) (a)* provides that it shall be a defence to a charge under the section to prove (on a balance of probabilities) that the accused believed on reasonable grounds that any video work concerned was an exempted work (*sub-paragraph (i)*) or that the supply was or would have been an exempted supply by virtue of *paragraph (b)* or *(c)* of *section 2 (1)* (*sub-paragraph (ii)* of *section 11 (3) (a)*). These defences are similar to those under *section 4 (2)* in relation to the offence of supplying etc. a video recording of an uncertificated video work, and what was said in paragraph 34 above applies.

60. *Subsection (3) (b)* provides that it shall be a defence to a charge under the section to prove (on a balance of probabilities) that the accused neither knew nor had reasonable cause to believe that the recording or the spool etc., as the case may be, was not in compliance with *subsection (1)*.

61. *Subsection (5)* provides that the offence shall be punishable on summary conviction with a maximum fine of £500.

Section 12 (Prohibition of supplying video recordings containing false indication as to supply certificate)

62. *Subsection (1)* makes it an offence for a person to supply, offer to supply or have in his possession for the purpose of supplying it a video recording containing an uncertificated video work if the recording, or any spool, case or other thing on or in which it is kept, contains an indication that a supply certificate is in force in respect of the video work.

63. *Subsection (2)* provides that it shall be a defence to prove (on a balance of probabilities) that the accused believed on reasonable

grounds that a supply certificate was in force in respect of the video work concerned (*paragraph (a)*) or that he neither knew nor had reasonable cause to believe that the recording or the spool etc. contained the indication referred to (*paragraph (b)*).

64. *Subsection (3)* provides that the offence shall be punishable on summary conviction with a maximum fine of £1,000.

Section 13 (Register of Certificated Video Works)

65. This section provides for a register of video works in respect of which a supply certificate under *section 3* is in force, for access by the public to the register and for facilitating the proof in legal proceedings, by means of a certificate of the Official Censor based on the register, of the fact that a supply certificate in respect of a video work was or was not in force at the time in question.

66. *Subsection (1)* provides that the Official Censor of Films shall establish and maintain a "Register of Certificated Video Works" comprising the video works in respect of which a supply certificate under *section 3* is for the time being in force. The form in which the register is to be kept will be prescribed by regulations of the Minister for Justice under *section 30*.

67. *Subsection (2)* provides that the Official Censor may amend or delete an entry in the register as occasion requires.

68. *Subsection (3) (a)* provides that members of the public may inspect the register free of charge at all reasonable times and may take copies of, or of extracts from, entries in it.

69. *Subsection (3) (b)* is to facilitate the proof in legal proceedings of the fact that a supply certificate under *section 3* was not in force at a particular time or during a particular period. The provision will apply in particular to where, for example, a person is being prosecuted for an offence under *section 4* of supplying on a particular date a video recording of an uncertificated video work. Under *paragraph (b)* the Official Censor, or a person authorised by him, will be able to give a certificate that he has examined the register and a particular video work or part of a video work contained in an identified video recording (*sub-paragraph (i)*) and that the register shows that a supply certificate was not in force in respect of the work at the time etc. in question (*sub-paragraph (ii)*). This will be *prima facie* evidence that no supply certificate was in force at that time etc., but it will of course be open to a party to adduce evidence to contradict the certificate. The reason why it may be sufficient under *sub-paragraph (i)* for the Official Censor to have examined only a *part* of a video work is that this is likely to be sufficient to show him that a supply certificate cannot have been in force in respect of the work as a whole.

70. *Subsection (3) (c)* is to provide for a situation where a supply certificate under *section 3* has been granted in respect of a video work but the work has afterwards been altered or added to. If there has been such an alteration or addition, the supply certificate will not count as being in force in respect of the resulting video work (*section 1 (3)*). If, for example, a person is prosecuted for an offence under *section 4* of supplying a video recording of an uncertificated video work consisting of the altered work, *paragraph (c)* will enable *prima facie* evidence of the fact of the alteration to be provided by the inclusion in the Official Censor's certificate under *paragraph (b)* of a statement that on a date specified in the certificate under *paragraph (b)* a supply certificate was granted in respect of a particular video work (*paragraph (c) (ii)*) and that the video work to which the proceedings relate differs in specified respects from the video work

in respect of which the supply certificate was granted (*paragraph (c) (i)*). Then, if the statements in the certificate under *paragraphs (b) and (c)* are uncontroverted, and if no supply certificate has been granted in respect of the altered video work, the offence will be established.

71. *Subsection (3) (d)* is to provide for the reverse situation to that to which *paragraph (b)* relates — that is to say, where it is desired to prove that a supply certificate under *section 3* was in force in respect of a video work on a particular date or during a particular period. Under *subsection (3) (d)* *prima facie* evidence that this is the case may be given by means of a certificate by the Official Censor or a person authorised by him in the same way as *subsection (3) (b)* enables *prima facie* evidence to be given that no supply certificate was in force on the date or during the period in question. The certificate under *subsection (3) (d)* may also state that a document identified by the certificate is a copy of the supply certificate in question, and the statement will be *prima facie* evidence of the terms of the supply certificate.

72. *Subsection (3) (e)* provides for the proof of a certificate under *paragraph (b)* — including that of any statement included in it under *paragraph (c)* — or under *paragraph (d)*. Under *paragraph (e)* any document produced to the court and appearing on its face to be a certificate such as mentioned will be taken to be such a certificate unless the contrary is shown. Similarly, a signature on the document appearing to be that of the Official Censor or of a person authorised by him will be taken to be the signature of the Censor or that person, and (in the latter case) it will be taken that the person signing signed the certificate in accordance with the Official Censor's authorisation, again unless the contrary is shown. As a result, it will in any ordinary case be sufficient to produce the document in question to the court and unnecessary to give oral evidence that the author of the certificate is the Official Censor etc. or to prove that the signature is genuine.

Section 14 (Register of Prohibited Video Works)

73. This section provides for a "Register of Prohibited Video Works" to be established and maintained by the Official Censor comprising the video works in respect of which the Official Censor has made prohibition orders under *section 6*. *Section 14* is similar *mutatis mutandis* to *section 13* subject to what is said in paragraphs 74 and 75 below.

74. The provisions of *subsection (3)* enabling *prima facie* evidence to be given by means of a certificate issued by or with the authorisation of the Official Censor of Films that a prohibition order was (*paragraph (b)*) or was not (*paragraph (c)*) in force in respect of a video work correspond to the provisions of *paragraph (d)* and *paragraph (b)* respectively of *section 13 (3)*. There is no provision in *section 14 (3)* corresponding to that in *section 13 (3) (c)* as to alterations to a video work, because no question of alterations arises in relation to prohibition orders. The provision in *section 14 (3) (d)* for proof of a certificate under the subsection is exactly similar to that in *section 13 (3) (e)*.

75. *Subsection (4)* makes two additional provisions relating to the Register of Prohibited Video Works that have no counterpart in *section 13*. *Paragraph (a)* of *section 14 (4)* provides that the Official Censor of Films shall from time to time cause a list of video works entered in the Register of Prohibited Video Works to be published in such manner as he thinks fit. *Paragraph (b)* provides that he shall keep the Revenue Commissioners informed of the video works for the time being entered in the register and that an officer of customs

and excise shall, on request, show a list of those video works to a person when entering the State.

Section 15 (Restriction of importation of certain video recordings)

76. *Subsection (1)* provides that a person shall not, except in accordance with a permit issued by the Minister for Justice (under *subsection (3)*), import into the State a video recording containing a prohibited video work. This will have the effect that video recordings so imported will be prohibited goods under the Customs Acts and that the importer will be guilty of an offence under those Acts of importing prohibited goods. It will also bring into operation the powers of the Revenue Commissioners under the Acts to make orders as to the forfeiture and disposal of the recording.

77. *Subsection (2)*, while preserving the Revenue Commissioners' powers as to forfeiture and disposal as mentioned in paragraph 76 above, provides that it shall be a defence to a charge under the Customs Acts of committing an offence in relation to the importation of a video recording containing a prohibited video work to prove (on a balance of probabilities) that the accused believed on reasonable grounds that no prohibition order was in force at the time of the importation in respect of the video work or works contained in the video recording imported.

78. *Section 15*, unlike the sections such as *section 7* which provide for a defence that the supply etc. of a video recording was or would be an exempted supply, contains no exception for importation for the purpose of what would be an exempted supply. Instead, *subsection (3) (a)* provides that the Minister for Justice may grant a permit to a specified person to import a specified number of video recordings containing specified video works if the Minister is satisfied that the proposed importation would not be for the purpose of a supply or would be for the purpose only of such limited supply as may be specified in the permit (*subparagraph (i)*) or would be for the purpose only of enabling the video work concerned to be viewed to such limited extent as may be specified in the permit (*subparagraph (ii)*). The permit may include conditions and the holder will be required to comply with them.

79. *Paragraph (b)* of *subsection (3)* provides that a person who contravenes a condition of a permit under *paragraph (a)* to import video recordings of prohibited video works shall be guilty of an offence, and *paragraph (c)* provides that he shall be liable on summary conviction to a maximum fine of £1,000.

Section 16 (Reference of certain video recordings to Official Censor of Films by officers of customs and excise)

80. *Subsection (1)* provides that an officer of customs and excise may detain on importation any video recording that in his opinion ought to be examined by the Official Censor of Films under the Act and may refer it to him for the purpose of such examination. This would apply in particular to where it seemed to the officer that a video work contained in the video recording might call for a prohibition order under *section 6*. The power under *section 16* is generally similar to that of customs officials under *section 5* of the Censorship of Publications Act, 1946 (No. 1), to refer books to the Censorship of Publications Board, but *section 16* of the Bill, unlike *section 5* of the 1946 Act, does not make an exception for articles carried by or forming part of the personal baggage of the traveller.

81. *Subsection (2)* provides that, where a customs official detains a recording under the section, he shall as soon as may be send it to

the Official Censor (*paragraph (a)*). If the video recording is in the custody of a person entering the State, the customs official will be required to notify him in writing that he proposes to send, or has sent, the recording to the Official Censor (*paragraph (b) (i)*); if the recording is not in the custody of a person entering the State, the customs official will be required to give the notification in writing to the person to whom the recording is consigned or his duly authorised agent (*paragraph (b) (ii)*).

82. *Subsection (3)* is a saving for the operation of the Customs Acts generally. This will make it clear that the fact that *section 16* of the Bill will enable customs officials to take the action provided for by the section in the particular situation to which the section relates is not to be construed as excluding the exercise of any other powers (referred to in *paragraph 76* above) under the Customs Acts.

Section 17 (Wholesale licences and retail licences for the sale, etc. of video recordings)

83. This section contains the main provision (mentioned in *paragraph 1* above) requiring licences for the sale or letting on hire of video recordings. It contains the administrative provisions for applications for, and the grant of, licences. The section corresponds broadly to *section 3*.

84. *Subsections (1)* and *(2)* provide for the grant of wholesale licences and retail licences respectively. A wholesale licence will authorise sales only; a retail licence will authorise sales and lettings on hire. The licence will be personal to the individual or company to whom or which it is issued. It will be obtainable as of right unless the applicant is disqualified under *section 23 (subsection (4))* on application to the Official Censor of Films and on payment of the prescribed fee. A licence will last for 12 months (*subsection (5)*).

85. *Subsection (3)* relates to the premises or place where the licensee will be permitted to sell or (in the case of a retail licence) let on hire video recordings. The provisions of the subsection differ according to the kinds of premises or places where the selling etc. may take place. In this connection it is necessary to note that the expression "premises" is defined by *section 1* of the Bill as including "any vehicle, vessel or stall". In the case of premises in the ordinary sense each licence will authorise sales etc. at or from the particular address only (*paragraph (a) (i)* and *(ii)*). In the case of mechanically propelled vehicles the licence will authorise sales etc. from the particular vehicle only and will specify the identification mark (i.e. the registration letters and number) (*paragraph (a) (i)* and *(iii)*). In the case of sales etc. from other places (i.e. from vehicles not being mechanically propelled ones, from vessels or stalls or from no particular place (in the case, for example, of a sale from a box by the roadside)) the licence will authorise sales etc. at one place only at any one time; no particular place will be specified and the effect will be that a separate licence will be required in respect of each place where sales etc. are to take place (*paragraph (b)*).

86. *Subsection (6)* provides that an applicant for a licence shall furnish the Official Censor with such information as the Censor may reasonably require. The information that may be required will include the applicant's tax reference number.

Section 18 (Prohibition of sale or letting on hire of video recordings by unlicensed persons)

87. This section prohibits, subject to exceptions, the sale etc. of video recordings without a licence. It corresponds broadly to *sections 4* and *7*.

88. *Subsection (1)* provides that a person shall not sell a video recording by wholesale except in accordance with a wholesale licence.

89. *Subsection (2)* provides that a person shall not sell, or let on hire, a video recording except in accordance with a retail licence.

90. *Subsection (3)* makes a number of exceptions. These are in respect of a sale or letting of a video recording containing only exempted works as defined in *section 1 (paragraph (a))*, a sale or letting for the purpose of an exempted supply of a video recording as defined in *section 2 (paragraph (b))*, a sale by a manufacturer to a licensed wholesaler (*paragraph (c)*), a sale that is part of a disposal of a person's property generally (for example, when the contents of a house are being sold) (*paragraph (d)*), a sale for charity (*paragraph (e)*), a purely private sale (*paragraph (f)*) and a sale by wholesale for export (*paragraph (g)*).

91. *Subsection (4)* provides that it shall be a defence to prove that the accused believed on reasonable grounds that the sale or letting on hire was not one to which the section applied or that it was in accordance with a licence.

92. *Subsections (5) and (6)* contain the necessary penal provisions and are similar to those of *sections 4 and 7* except that *section 18* makes the offences triable only summarily (and with the same maximum penalty of a fine of £1,000 or twelve months' imprisonment

Section 19 (Prohibition of possession of video recordings for sale or letting on hire contrary to section 18)

93. This section creates an offence of possession for sale etc. contrary to *section 18*. It corresponds to *sections 5 and 8*. The maximum penalty will be as in *section 18*.

Section 20 (Prohibition of false information and alteration of licences)

94. This section creates summary offences of giving false information to the Official Censor in relation to an application for a licence or forging or altering a licence etc. with intent to deceive. The maximum penalty will be as for selling without a licence contrary to *section 18*: see paragraph 92 above.

Section 21 (Display of licences)

95. This section requires dealers in video recordings to display or produce their licences as mentioned below.

96. *Subsection (1)* provides that, where the sales etc. are taking place at or from premises (including a vehicle, vessel or stall), the licence is to be displayed, so as to be clearly visible and legible, at the part of the premises where the sales etc., or a substantial proportion of them, are taking place.

97. *Subsection (2)* provides that, where the sales etc. are taking place at a place which is not premises (for example, from a box by the roadside), the licence (instead of having to be displayed) shall be produced on demand to any person at the place in question.

98. *Subsection (3)* provides that the maximum penalty for a contravention shall be a fine of £500.

Section 22 (Registers of licences)

99. This section provides for the Official Censor of Films to keep

registers of wholesale and retail video recording licences. It also provides for the admissibility in legal proceedings of a certificate by the Censor, based on a register, as to whether a licence was or was not in force at the relevant time. The section corresponds to *sections 13 and 14*.

Section 23 (Forfeiture of licences and disqualification)

100. This section provides that, if the holder of a licence under the Act is convicted of any of the offences under the Act mentioned in *subsection (1)*, or of an offence under the copyright laws in relation to a video recording, and he has previously been convicted of any of those offences, the court shall order that the licence shall be forfeited and that the offender shall be disqualified for five years from holding a licence; the offence to which the previous conviction relates must have been one committed not earlier than five years before the commission of the offence to which the later conviction relates. The offences under the Act involving forfeiture and disqualification will be those relating to the supply, sale or letting on hire of recordings, to possession for those purposes and to the labelling of recordings and offences involving deception. The section corresponds broadly to *section 27* providing for forfeiture of video recordings on conviction of offences under the Act involving supply etc. of recordings (see paragraphs 105-108 below).

Section 24 (Search and seizure)

101. *Subsection (1)* enables a justice of the District Court or a Peace Commissioner to issue a search warrant for the purpose of obtaining evidence of an offence under the Act. He will have to be satisfied by evidence on oath of a member of the Garda Síochána not below the rank of sergeant that there are reasonable grounds for suspecting that an offence under the Act (or an offence referred to in *section 15 (2)* — i.e. an offence of importing a video recording of a prohibited video work — see paragraph 76 above) has been or is being committed on or at specified premises (including any vehicle, vessel or stall: *section 1 (1)*) or other place (*paragraph (a)* of *section 24 (1)*) and that evidence of the commission of the offence is on or at the premises or place (*paragraph (b)*). The warrant will be authority for the member to whom it is issued, accompanied by any other members, to enter the place in question within a month, if necessary by force, and search it and to seize anything that he has reasonable grounds to believe may be required to be used in evidence in any proceedings for the offence in question (*paragraph (i)*). By reason of the general provisions of *section 9 (1)* of the Criminal Law Act, 1976 (No. 32), the thing seized will be able to be retained for a reasonable period with a view to its use in any criminal proceedings and, if criminal proceedings are instituted, till their conclusion. Under the same provision the powers of a justice of the District Court under the Police (Property) Act, 1897 (c.30), to order that property that has come into the possession of the Garda Síochána in connection with criminal investigations shall be returned to the owner, or, if the owner cannot be ascertained, otherwise disposed of, will be exercisable in respect to property seized under the search warrant; but this will be subject to the power of the court under *section 27* of the Bill to order the forfeiture of a video recording in respect of which a person has been convicted of an offence such as is mentioned above. The search warrant will also authorise the member of the Garda Síochána to whom it is issued to require any person found at the place in question to give him his name and address (*paragraph (ii)*).

102. *Subsection (2)* provides that it shall be an offence for a person to obstruct or interfere with a member of the Garda Síochána acting under the authority of a search warrant under the section (*paragraph*

(a)) or, if found at the place in question, to fail or refuse to give his name and address on demand or to give a name or address that is false or misleading (*paragraph (b)*). The offence will be punishable on summary conviction with a maximum fine of £1,000 in the case of an offence (under *paragraph (a)*) of obstruction or interference (*paragraph (i)*); in the case of an offence (under *paragraph (b)*) of not giving name and address etc. the maximum fine will be £500 (*paragraph (ii)*).

Section 25 (Powers of arrest)

103. *Subsection (1)* confers a general power on members of the Garda Síochána to require a person whom the member reasonably suspects of having committed an offence under the Act (other than an offence under *section 24 (2) (b)*) to give the member his name and address; and it provides that, if the person in question fails or refuses to do so, or gives a name or address that the member reasonably suspects to be false or misleading, the member may arrest him without warrant. The reason why *subsection (1)* provides that it shall not apply to an offence under *section 24 (2) (b)* is that *section 24 (2) (b)* itself provides that a failure or refusal etc. to give a name and address is an offence and *subsection (2)* of *section 25* gives the necessary power to arrest a person without warrant on reasonable suspicion of having committed that offence.

Section 26 (Offences by bodies corporate)

104. This section makes provision (in common form) that, if an offence under the Act is committed by a body corporate, and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager etc. of the body corporate, he as well as the body corporate shall be guilty of the offence and may be prosecuted and punished accordingly.

Section 27 (Forfeiture of video recordings)

105. *Subsection (1)* provides that the court at which a person is convicted of an offence under the Act (other than an offence under *section 20* or *21*) or an offence referred to in *section 15 (2)* (i.e. an offence of importing a video recording of a prohibited video work — see *paragraph 76* above) may order a video recording produced to the court (*paragraph (a)*) and shown to the satisfaction of the court to relate to the offence (*paragraph (b)*) to be forfeited and to be destroyed or otherwise disposed of in such manner as the court may determine.

106. *Subsection (2)* provides that the court shall not order a video recording to be forfeited under *subsection (1)* until any person who claims to be the owner of the recording or to be otherwise interested in it and who applies to be heard has had an opportunity to show cause why the order should not be made.

107. *Subsection (3)* postpones the operation of any forfeiture order under the section until the expiration of the ordinary time for an appeal against the conviction or order concerned and until the determination of any appeal.

108. *Subsection (4)* applies the provisions of the section for the forfeiture of a video recording to any spool, case or other thing on or in which the recording is kept.

Section 28 (Annual reports)

109. *Subsection (1) (a)* provides that the Official Censor of Films

shall prepare annual reports of his activities under the Act and under the Censorship of Films Acts, 1923 to 1970, and submit them to the Minister for Justice, who shall cause copies to be laid before each House of the Oireachtas.

110. *Subsection (1) (b)* makes similar provision for annual reports by the Censorship of Films Appeal Board of their activities under the new Act and the Censorship of Films Acts.

111. *Subsection (2)* provides that the Official Censor of Films or the Appeal Board shall make special reports to the Minister for Justice on any matter arising in connection with the Censor's or the Board's activities respectively referred to above in any case where the Censor or Board thinks it desirable to do so or the Minister so requests.

Section 29 (Composition of Censorship of Films Appeal Board)

112. *Subsection (1)* amends section 3 of the Censorship of Films Act, 1923, so as to require that the Censorship of Films Appeal Board shall include at least one man and at least one woman.

113. *Subsection (2)* provides that *subsection (1)* shall come into operation on the expiration of the term of office of the members of the Appeal Board holding office at the time of the passing of the new Act. (By section 3 (2) of the Censorship of Films Act, 1923, all the members hold office for periods of five years and the terms of office of all of them expire at the same time.)

Section 30 (Regulations)

114. *Subsection (1)* provides that the Minister for Justice may make regulations for the purpose of enabling the Act to have full effect. *Paragraphs (a), (b) and (c)* specify particular matters with respect to which provision may be made by the regulations; but this is without prejudice to the generality of the provision that regulations may be made for the purposes mentioned above. Apart from *section 30* there are the various particular provisions in the Bill for the amount of fees to be "prescribed" by the Minister for Justice (with the consent of the Minister for Finance). Owing to the definition of "prescribed" in *section 1 (1)* these fees will be prescribed by regulations.

115. *Subsection (2)* provides that regulations under the Act may make different provision for different kinds of video works and licences and for different circumstances.

Section 31 (Laying of regulations before Houses of Oireachtas)

116. This section makes provision (in common form) that every regulation made under the Act shall be laid before each House of the Oireachtas and that it may be annulled by resolution of either House.

Section 32 (Fees)

117. *Subsection (1)* provides (in common form) that fees received by the Official Censor under the Act shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs.

118. *Subsection (2)* provides that the total amount of the fees charged annually under the Act shall as nearly as possible be equal to the total expenditure incurred annually in the administration of the Act.

119. *Subsection (3)* provides that the Public Offices Fees Act, 1879

(c. 58), shall not apply to any fees charged under the new Act. The 1879 Act includes detailed provisions as to the mode of collection and disposal of "fees payable in any public office".

Section 33 (*Expenses of Minister*)

120. This section makes provision (in common form) for expenses incurred by the Minister for Justice in the administration of the Act to be paid out of moneys provided by the Oireachtas.

Section 34 (*Short title and commencement*)

121. Subsection (1) gives the short title of the Act.

122. Subsection (2) provides that (with the exception of the provision in section 28 for annual reports and of that in section 29 as to the composition of the Censorship of Films Appeal Board: as to the latter exception see paragraph 113 above) the Act shall come into operation on such day or days as may be fixed by order or orders of the Minister for Justice either generally or with reference to any particular purpose or provision. As was indicated in paragraphs 1 and 32 above, the operation of the provisions of section 3 for certification by the Official Censor of video works will depend on the making by the Minister for Justice of orders bringing the relevant provisions into operation at different times according to the age of the video recordings in question; but as mentioned in paragraph 37 above prohibition orders under section 6 may be made in respect of a video work as soon as that section is brought into operation even if section 3 has not yet been brought into operation in respect of video recordings of the work.

*An Roinn Dlí agus Cirt,
Máirtín, 1988.*