

STATES OF JERSEY

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DRAFT TRANSFER OF FUNCTIONS (ECONOMIC DEVELOPMENT COMMITTEE) (JERSEY) ACT 200

**Lodged au Greffe on 17th August 2004
by the Economic Development Committee**

STATES GREFFE



Jersey

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REPORT

The Video Recordings (Jersey) Law 1990 was introduced to make provision for regulating the distribution of video recordings including, in some circumstances, video games. The “designated authority” in the Law refers to the body as designated by the Secretary of State under Section 4 of the Video Recordings Act 1984 and that body is currently the British Board of Film Classification (BBFC). This ensures that any video recordings distributed in the Island match the age restrictions operating in the U.K. market.

The powers under the law at present are placed with the Education, Sport and Culture Committee and an officer of that Committee is responsible for enforcement. This includes the power to enter and search premises, seize offending material and prosecute those who commit offences.

The Education, Sport and Culture Committee do not have any enforcement officers and as the Economic Development Committee has general responsibility for consumer protection matters, it considers that the powers under the legislation would be more effectively placed with them. The enforcement function will be transferred to the Trading Standards Service – a function which has always been carried out by their U.K. colleagues – as they already have established lines of contact with the BBFC.

As the enforcement duties will be carried out by the current Trading Standards team there are no financial or manpower implications for the States arising from the proposed transfer of functions.

Explanatory Note

This Act transfers the functions of the Education, Sport and Culture Committee (which is referred to in the Act as the transferring Committee) under the Video Recordings (Jersey) Law 1990 to the Economic Development Committee (which is referred to in the Act as the receiving Committee). The transferred functions are the power to alter a statement on the classification certificate that is issued for a video work and the labelling of the video recording, spool, case or other thing in which the video recording is kept.

Article 1 provides for the interpretation of the terms used in the Act.

Article 2 transfers the functions of the Education, Sport and Culture Committee under the Video Recordings (Jersey) Law 1990 to the Economic Development Committee.

Article 3(1) provides that references to the Education, Sport and Culture Committee in the Video Recordings (Jersey) Law 1990 are to be construed as references to the Economic Development Committee.

Article 3(2) provides that any reference to the Education, Sport and Culture Committee or its officers in any other enactment, judgement, award, contract, certificate, licence or other document that is in existence before this Act comes into force is now to be construed as a reference to the Economic Development Committee or its officers.

Article 3(3) addresses the operation of any appointment, determination, direction, instruction, approval, consent, authorization or other thing made, given or done by the Education, Sport and Culture Committee before this Act comes into force. It provides that the transfer of functions under the Act will not prejudice any of these.

Articles 3(4) to 3(7) provide for the transfer to the Economic Development Committee of any rights and liabilities of the Education, Sport and Culture Committee arising out of the exercise by the Education, Sport and Culture Committee of the transferred functions.

Article 3(8) provides for the substitution of the Economic Development Committee for the Education, Sport and Culture Committee in any legal proceedings concerning the transferred functions and to which the Education, Sport and Culture Committee is a party.

Article 4 names the Act and states that it will come into force 7 days after it is made.



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Arrangement

Article

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Jersey

DRAFT TRANSFER OF FUNCTIONS (ECONOMIC DEVELOPMENT COMMITTEE) (JERSEY) ACT 200

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 29 of the States of Jersey Law 1966,^[1] have made the following Act –

1 Interpretation

In this Act, unless the context otherwise requires –

“liabilities” means –

- (a) any liabilities, whether civil or criminal;
- (b) any debts; and
- (c) any obligations,

whether present or future and whether vested or contingent;

“receiving Committee” means the Economic Development Committee;

“rights” means –

- (a) any rights, including a right of action in respect of a civil matter;
- (b) any powers;
- (c) any privileges; and
- (d) any immunities,

whether present or future and whether vested or contingent;

“transferring Committee” means the Education, Sport and Culture Committee.

2 Functions transferred

There are transferred to the receiving Committee the functions of the transferring Committee under the Video Recordings (Jersey) Law 1990.^[2]

3 Construction and transitional provisions

- (1) In the enactment mentioned in Article 2, any reference to the transferring Committee in relation to the functions transferred by Article 2 shall be construed as a reference to the receiving Committee.
- (2) In the construction of, and for the purposes of, any other enactment or any judgment, award, contract, certificate, licence or other document passed or made before this Act comes into force, anything that

is, or is to be construed as, a reference to the transferring Committee or its officers shall, so far only as may be necessary for and in consequence of the transfer of functions effected by Article 2, be construed as a reference to the receiving Committee or its officers.

- (3) The transfer of functions effected by Article 2 shall not prejudice the operation of any appointment determination, direction, instruction, approval, consent, requirement, authorization or other thing made, given or done by the transferring Committee before the time when this Act comes into force in relation to the functions transferred by Article 2, but such matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the receiving Committee.
- (4) Any rights, and any liabilities, enjoyed or incurred by the transferring Committee in connection with those functions shall be transferred to the receiving Committee and shall become by virtue of this Act the rights and liabilities of the receiving Committee.
- (5) The operation of paragraph (4) shall not be regarded –
 - (a) as a breach of contract or confidence or otherwise as a civil wrong;
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
 - (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.
- (6) For the purposes of paragraph (4), to the extent that a contract, or other instrument, that creates or passes a right or liability of the transferring Committee specifies that it is incapable of transfer or assignment, the contract or instrument shall be of no effect.
- (7) Anything commenced before this Act comes into force by or under the authority of the transferring Committee may, so far as it relates to the functions, rights, or liabilities, transferred by this Act, be carried on and completed by or under the authority of the receiving Committee.
- (8) Where, at the coming into force of this Act, any legal proceeding is pending to which the transferring Committee is a party and the proceeding has reference to any of the functions, rights, or liabilities, transferred by this Act, the receiving Committee shall be substituted in the proceeding for the transferring Committee and the proceeding shall not abate by reason of the substitution.

4 Citation and commencement

This Act may be cited as the Transfer of Functions (Economic Development Committee) (Jersey) Act 200- and shall come into force 7 days after it is made.

[1] *Recueil des Lois, Volume 1966-1967, page 16 and Volume 1996-1997, page 803.*

[2] *Recueil des Lois, Volume 1990-1991, page 275 and Volume 2002, page 85.*