

Video recordings and games for sale and hire

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Key legislation

This guidance is for England, Scotland and Wales

The Video Recordings Act 1984 (which was repealed and revived by the Video Recordings Act 2010) regulates the sale, hire, exchange and loan of all video works - including video games - that are made available to the public on DVD, Blu-ray or any other device capable of storing data electronically, unless the supply or the video work is 'exempt'. The Video Recordings Act 1984 sets out a number of criminal offences.

The British Board of Film Classification (BBFC) is responsible for classifying video works. With certain minor exceptions the Video Standards Council (VSC) is responsible for classifying video games.

Retailers must take note of and comply with all legislation applicable to the sale, hire, exchange and loan of video works and games to avoid committing criminal offences; a list of other relevant legislation enforced by trading standards is included in this guide.

Classification

The BBFC is designated as the authority responsible for classifying works according to the material they contain (criminal behaviour, sex, violence, bad language, drugs, etc) and for issuing or refusing classification certificates. The classification certificate will include a statement, such as:













- the video work is suitable for general viewing and unrestricted supply
- the video work is suitable for viewing by people of a specified age (not more than 18) and must not

- be supplied to anyone under the specified age
- the video work is suitable for viewing by people of a specified age (18 - suitable only for adults) and must not be supplied to anyone under the specified age
- the video recording containing the video work can only be supplied in a licensed sex shop to adults

The VSC (using the name VSC Rating Board) is the designated authority responsible for classifying video games using the Pan-European Game Information (PEGI) system. Video games are classified at 12, 16 and 18 according to the content of the video game. Video games receiving a 3 or 7 rating are advisory only. The BBFC retains responsibility for classifying video games where the content warrants an R18 classification (because of more extreme sexual content) or where the video game is a small game contained on a disc that is predominantly a film.

Video works and video games are exempt from classification if their purpose is to inform, educate or instruct, or if they are about sport, religion or music. However, their content is taken into consideration when deciding if classification is required - for example, if a video work or a video game includes violence, sexual messages, offensive or discriminatory behaviour, alcohol, tobacco or illegal drugs, it will not be exempt from classification. A further exemption condition for video games is that they must be verified as being suitable for viewing by under 12s. Exempted supplies of video works include those that are not related to a business activity, not for financial gain and those that are private recordings of an event or occasion - such as a wedding video - made for those people connected with it.






Classification categories for video works

Symbol	New symbol (in use from 6 April 2020)	Classification	Only to be sold to
		universal	unrestricted
		parental guidance. General viewing but some scenes may be unsuitable for young children	unrestricted
		suitable only for persons aged 12 and over	12 and over
		suitable only for persons aged 15 and over	15 and over
		suitable only for persons aged 18 and over	18 and over
		restricted 18. To be supplied only in licensed sex shops and to persons aged 18 and over	18 and over in a licensed sex shop

It is illegal for a retailer to sell a video recording with a BBFC classification rating of 12, 15 or 18 to a person who has not reached that age.

Classification categories for video games






Symbol Classification

		Only to be sold to
	suitable for all age groups	unrestricted
	normally rated as a 3 but some content may not be suitable for younger children	unrestricted
	slightly more graphic violence and mild bad language. Suitable for persons aged 12 and over	12 and over
	graphic violence, bad language, concept of use of tobacco, drugs and criminal activities. Suitable for persons aged 16 and over	16 and over
	depictions of gross violence. Suitable for persons aged 18 and over	18 and over

The PEGI rating system also includes descriptor icons on the back of the packaging showing the reasons why the content of the video game has received the particular age rating.

PEGI rating system

Descriptor icon Explanation

	contains bad language
	depicts or contains material that may encourage discrimination
	depicts or refers to the use of drugs
	may frighten or scare young children
	teaches or encourages gambling

Descriptor icon Explanation



can be played online



has sexual references or depicts nudity and/or sexual behaviour



contains depictions of violence

It is illegal for a retailer to sell a video game with a PEGI age rating of 12, 16 or 18 to a person who has not reached that age.

Labelling

The Video Recordings (Labelling) Regulations 2012 specify the labelling requirements for video recordings and video games.

The classification symbol, descriptor icon (for video games), unique title (including the registered number) and explanatory statement (for video recordings), where required by the Regulations, must be clearly legible, indelible and not hidden or obscured. The Regulations set out where the classification symbol and descriptor icon labels and markings must be shown on the packaging for video recordings and video games and on the disc or other electronic device.

It is illegal for a retailer to supply or offer to supply a video recording that does not comply with labelling requirements.

Defences

There are defences available if you are charged with offences under the Video Recordings Act 1984. Offences under section 11 of the Act are most relevant for the content of this guide and as such the defences are given below.

You have the defence that you neither knew, nor had reasonable grounds to believe, that either:

- the classification certificate contained the statement in relation to the specified age
... or
- the person concerned had not reached the specified age

You also have the defence that you had reasonable grounds to believe that the supply was, or would have been, an exempted supply as defined by legislation. No video recording sold to the public by a shop, online, etc can be an exempted supply.

There is a general defence to offences under the Video Recordings Act 1984, namely that you took all reasonable precautions and exercised all due diligence to avoid committing an offence. Therefore it is recommended that you have systems in place to avoid committing an offence; these systems should be regularly checked and updated. See the '**Keeping within the law**' section of this guide for more

information. As well as this defence, it also needs to be shown that the offence was due to the act or default of another person, other than the accused.

Keeping within the law

It is the trader's responsibility to keep within the law and to have systems in place that will act as a 'due diligence' defence.

In order to keep within the law and therefore satisfy the legal defences, you should introduce an age verification policy and have effective systems to prevent an underage sale. These systems should be regularly monitored and updated as necessary to identify and put right any problems or weaknesses, or to keep pace with any advances in technology.

Key best practice features of an effective system include the following.

Age verification checks

Always ask young people to produce proof of their age. The Chartered Trading Standards Institute, the Home Office, the Scottish Government, the National Police Chiefs' Council and Police Scotland support the national Proof of Age Standards Scheme (PASS), which includes a number of card issuers. You can be confident that a card issued under the scheme and bearing the PASS hologram is an acceptable proof of age. The Scottish Government also endorses the Young Scot card.

A passport or photocard driving licence can also be accepted, but make sure that the card matches the person using it and the date of birth shows they are over 18. Military identification cards can be used as proof of age but, as with other forms of identification, make sure the photo matches the person presenting the card and check the date of birth. Be aware that military identification cards can be held by 16 and 17-year-old service people.

You do not have to accept all of the above forms of identification and it may be best to exclude any type of document that your staff are not familiar with.

Some young people may present false identification cards so it is advisable to also check the look and feel of a card. For example, the PASS hologram should be an integral part of a PASS card and not an add-on.

Posters showing age limits should be displayed and contain a statement regarding the refusal of such sales. This would then deter potential purchasers and act as a reminder to members of staff.

If the person cannot prove that they are at least the minimum legal age - or if you are in any doubt - the sale should be refused.

Please see the Home Office *False ID Guidance* for more information (this applies to England and Wales only).

Staff training

Always observe any age restrictions on the video recording and make sure your staff do so too. It is advised that the legislation be brought to the attention of all staff via regular training. It is important that

you can prove your staff have understood what is required of them under the legislation. This can be done by keeping a record of the training and asking the member of staff to sign to say that they have understood it. These records should then be checked and signed on a regular basis by management or the owner.

Maintain a refusals log

All refusals should be recorded on a refusals sales sheet or a refusals book. Some tills have a refusals system built in. Maintaining a refusals log will strengthen any defence you may have. Logs should be checked by the manager / owner to ensure that all members of staff are using them.

A specimen refusals log is attached.

Some tills have a refusals system built in. If using a till-based system, you should ensure that refusals can be retrieved at a later date. You should also be aware that some refusals are made before a product is scanned.

Stock

Check your current and new stock and ensure that all video recordings have been classified.

Check your current and new stock for labelling. Make sure that the discs, games, etc - as well as the cases - are correctly marked with the appropriate symbol, icon (where appropriate) and explanatory note.

Always buy from a known and reputable supplier and keep your transaction documentation.

Check the quality of the printing on the disc label and the case sleeve; poor quality printing can indicate that the products may be counterfeit.

Some producers use holograms on their products as a way of showing they are genuine. Check that any holograms on the products are working and not a copy.

Online sales

If you sell by distance means, such as online or via a catalogue, you should set up an effective system capable of verifying the age of potential purchasers. Please see 'Online sales of age-restricted products' for more information.

Intellectual property

Trade Marks Act 1994

Many traders have registered their trade mark and incorporated it on to the disc or game and the case or any other thing on or in which the recording is kept. It may also appear within the content so that it can be

seen on viewing. If an unauthorised copy is made, found in possession for sale or hire, or so sold or hired, and it has a copy of the registered trade mark, an offence is committed that can result in a prosecution, imprisonment of up to 10 years and a fine. In addition, all offending stock is liable for forfeiture and destruction.

Copyright, Designs and Patents Act 1988

It is an offence to make an infringing copy of a copyrighted work. Even if no trade marks are displayed a person may still be committing an offence. Sentences can be imprisonment of up to 10 years and a fine.

Both of these laws are covered in 'Intellectual property', which also includes links to more detailed information from the Intellectual Property Office.

Trading standards

For more information on the work of trading standards services - and the possible consequences of not abiding by the law - please see 'Trading standards: powers, enforcement and penalties'.

Key legislation

Video Recordings Act 1984

Copyright, Designs and Patents Act 1988

Trade Marks Act 1994

Digital Economy Act 2010

Video Recordings Act 2010

Video Recordings (Labelling) Regulations 2012

Video Recordings Act 1984 (Exempted Video Works) Regulations 2014

Last reviewed / updated: April 2020

In this update

New BBFC classification symbols added

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

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