

DIGITAL ECONOMY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Topic 9: Video recordings

Section 41: Designated authority for video games

189. This section inserts a new section 4ZA into the 1984 Act and allows the Secretary of State to designate two different authorities under section 4 of the Act. So, a person (or persons) may be designated to make arrangements with respect to video games (“the video games authority”) and a different person or persons may be designated for making arrangements in respect of other video works (“the video works authority”).
190. Some mechanism is thought to be necessary to enable the designated authorities, where appropriate, to transfer work between them. New section 4ZB provides that where two authorities are designated under section 4, responsibility for classifying a class of video games may be allocated by the video games authority to the video works authority. This will allow the video games authority to allocate to the other authority responsibility for video games that are considered to be suitable only for supply in licensed sex shops. It also provides that the video games authority may allocate responsibility in relation to video games when they are supplied in a particular type of video recording – for example, responsibility might be transferred for video games that are supplied on the same disc as a film or within the same boxed set as a film. An example would be the basic games found on Blu-Ray discs. Once an allocation is made, the video works authority has responsibility for making arrangements in respect to the allocated works.
191. An allocation must be made by notice and may only be made with the consent of the video works authority. It may only be withdrawn by notice and with consent. When making or withdrawing an allocation, the video games authority must have regard to any guidance issued by the Secretary of State.
192. Any question as to which authority is responsible for making arrangements with respect to a class of video games may be determined conclusively by the video games authority. New section 4ZA(2) provides that references in the 1984 Act to the designated authority in relation to a particular video work will be to the authority designated to be responsible for making arrangements in relation to the video work, taking account of any allocation made by the video works authority under new section 4ZB.
193. New section 4ZC relates to video works that are found within video games, for example, a film which can be viewed as part of the process of playing a game. Where the video work already has a classification certificate issued by the video works authority, it enables the video games authority to take account of that certificate. For video works that have not already received a classification certificate, it enables the video games authority to make arrangements to obtain and have regard to any subsequent determination made by the video works authority as to the suitability of all or part of the video work included in a video game. The video games authority must consult the video works authority with respect to the appropriateness of the arrangements that it

*These notes refer to the Digital Economy Act 2010
(c.24) which received Royal Assent on 8 April 2010*

makes for taking account of such matters. It must also have regard to any guidance issued by the Secretary of State.