

FILMS ACT

Act 41 of 2002 – 1 October 2009

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FILMS ACT

1. Short title

This Act may be cited as the Films Act.

2. Interpretation

In this Act—

“Authority” has the same meaning as in the Building Act;

“Board” means the Film Classification Board established under section 4;

“building” includes a cinema hall, public place or other place to which the public has access for the purpose of an exhibition;

“Chief Fire Officer” means the Chief Fire Officer of the Mauritius Fire and Rescue Service;

“exhibition” means projection or display of a film in public;

“film” means a record of a sequence of visual images which is capable of being used as a means of showing that sequence as a moving picture, and includes a cinematograph film, a video tape and a video disc;

“Minister” means the Minister to whom responsibility for the subject of film classification is assigned;

“Panel” means the Film Classification Consultative Panel established under section 6;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“permit” means a permit issued under section 8;

“poster” includes any printed matter, placard, illustrated pamphlet, photograph, picture or other device for advertising a film;

“publicity material” includes a trailer, poster, photo, booklet, sticker or any device used for advertising a film;

“Secretary” means the Secretary to the Board.

3. Application of Act

This Act shall not apply to any film which has been made in Mauritius by an amateur or imported by a person for personal use, unless the film is exhibited or displayed in a place to which the public may have access.

4. Film Classification Board

(1) There is established for the purposes of this Act a Film Classification Board whose functions are to view and classify films and publicity materials.

(2) The Board shall consist of—

- (a) a Chairperson, to be appointed by the Minister;
- (b) such number of Vice-chairpersons and members, being persons from the public sector, private sector or academia and having wide experience in the social, psychological and artistic fields, to be appointed by the Minister.

(3) The members of the Board, including the Chairperson and Vice-chairpersons, shall hold office for a period of 5 years and shall be eligible for reappointment.

(4) At any meeting of the Board, 3 members, one of whom shall be the Chairperson or a Vice-chairperson, shall constitute a quorum.

(5) The Board shall regulate its meetings and proceedings in such manner as it may determine.

(6) Notice of the appointment of the Board or of any member of the Board shall be published in the Gazette.

5. Staff of Board

(1) The Permanent Secretary may designate such public officers as may be necessary to be the staff of the Board.

(2) The staff shall be under the control of a Secretary, who shall be the chief executive officer of the Board.

6. Film Classification Consultative Panel

(1) There is established a Film Classification Consultative Panel.

(2) The Panel shall consist of—

(a) a Chairperson;

(b) 7 other members,

appointed by the Minister on such terms and conditions as he may deem fit.

(3) No person shall be eligible to be appointed or remain a member of the Panel if he has or acquires any direct or indirect financial interest in the film business.

(4) The function of the Panel is to advise the Minister on all matters relating to film classification.

(5) For the purpose of exercising its functions, the Panel may call for information from the Board regarding any film classified by the Board.

(6) The Board shall furnish to the Panel any information requested under subsection (5).

7. Registration of film importers

No person shall carry on the trade of film importer unless he is registered with the Board in the manner prescribed or approved by the Board.

8. Importation of films

(1) Subject to subsection (5) and section 10, no person shall import a film unless he has obtained a permit to that effect.

(2) Any person who wishes to obtain a permit shall make a written application to the Minister in such form, and upon payment of such fee, as may be prescribed.

(3) On receipt of an application under subsection (2), the Minister may require the applicant to submit such additional information or document as he may require.

(4) After considering the application and such other information or document as the Minister may have obtained, he may—

(a) grant the permit subject to such terms and conditions as he may impose;

(b) refuse the permit if he is of the opinion that the exhibition of the film is not in the interest of defence, public safety, public order or public morality.

(5) An import permit shall not be required by a person importing a film for personal use.

9. Consignment, clearance and custody of films

Subject to section 10, every film imported into Mauritius shall—

- (a) be consigned to the Secretary;
- (b) be cleared from the Customs by the importer in the presence of an officer of the Board;
- (c) immediately upon clearance from Customs, be delivered into the possession of the officer specified in paragraph (b); and
- (d) be placed and remain in the custody of the Secretary until it has been classified under section 11 and delivered to the importer.

10. Exempted bodies

Sections 8 and 9 shall not apply to films imported—

- (a) by a Ministry, the Mauritius Broadcasting Corporation, the Mauritius College of the Air, the Mauritius Film Development Corporation and the Mauritius Tourism Promotion Authority; or
- (b) by diplomatic missions or international bodies recognised by Government.

11. Classification of films and posters

(1) Every film or poster which is meant for public exhibition shall be submitted to the Board, at such time and place as the Board may decide, for classification.

(2) The Board may, in its discretion, exclude any person from the place where the film or poster is being viewed for classification.

(3) The Board shall issue a classification certificate in the prescribed form.

(4) There shall be charged for the classification of a film such fee as may be prescribed.

12. Film exhibition

(1) No person shall exhibit or display in public any film or publicity material unless the film or publicity material has been approved by, and a certificate of exhibition issued by, the Board.

(2) A certificate issued under subsection (1) may be subject to such conditions as the Board may think fit to impose.

(3) No person shall exhibit or display a film in public unless it is preceded by a film copy, or a slide of not less than 15 seconds, showing in full the classification certificate issued by the Board.

(4) A film or any publicity material which is exhibited without complying with any of the conditions imposed under subsection (2) or subsection (3) shall be deemed not to have been approved.

13. Prohibition of exhibition and recall of film

(1) Where the Board has reason to believe that a film is being, or is about to be, exhibited without a certificate of exhibition, it may, by notice in writing to any person who is in possession of the film—

- (a) prohibit such exhibition;
- (b) call for the immediate surrender of the film to the Board.

(2) Where the person in possession of the film is unknown, untraceable or otherwise not available, the notice may be published in the Gazette and 2 daily newspapers.

(3) Where the Board is of the opinion that the giving of a notice may cause undue delay and it is necessary to take urgent action under subsection (1), the Board may refer the matter to the Commissioner of Police, who may prohibit the exhibition and seize the film.

(4) Where a film is the subject matter of a notice under subsections (1) and (2), the person in possession of the film shall surrender it to the Board forthwith.

14. Appeal to Minister

(1) Every person who is aggrieved by the decision of the Board under section 11 (3) or 12 may give notice of appeal to the Minister within 10 days of the communication of the decision to him.

(2) Every notice of appeal shall set down the grounds of the appeal.

(3) There shall be kept a record of the proceedings relating to an appeal.

(4) For the purpose of hearing an appeal, the Minister may call for a report from 3 Deputy Chairpersons of the Board, not being Deputy Chairpersons who took the decision under sections 11 (3) or 12.

(5) The Minister shall give reasons for his decision on appeal and shall communicate the decision to the appellant within 7 days of the date of the decision.

15. Retention or re-export of unapproved films

(1) Where the Board has not approved a film, or any part of it, for exhibition, or where the importer has appealed and his appeal has been dismissed, the Board may retain the film or the part thereof until it is re-exported or disposed of in accordance with section 16.

(2) Where the Board is satisfied that the importer intends to re-export a film retained under subsection (1), the film shall be remitted to the importer for re-exportation under the supervision of the Comptroller of Customs, after the expiry of the delay of appeal specified in section 14, or where the importer has appealed, 3 months after the decision on appeal.

16. Disposal of unclaimed films

(1) The Minister may order the destruction or disposal by the Board of any film which—

- (a) has been rejected, where the delay specified in section 14 (1) has expired; or
- (b) has been consigned to the Secretary and has remained unclaimed by the importer for a period of 6 months.

(2) The Minister shall not incur any liability in respect of any action taken in good faith under subsection (1).

17. Registers

Every licensee of a video club or cinema hall shall—

- (a) keep such register and documents as the Board may specify; and
- (b) submit the register and documents for inspection, on demand, to the Board, or any officer authorised by the Board, in writing.

18. Power of entry without warrant

(1) A Magistrate may, upon information under oath laid before him by a police officer not below the rank of Inspector and upon being satisfied that a film is being exhibited or is about to be exhibited in any dwelling house or place to which the public does not have access, in breach of this Act or regulations made thereunder, issue a warrant authorising the police to—

- (a) enter and search the dwelling house or place;
- (b) seize the film and appliances used in connection with the exhibition or to be used for the exhibition of the film.

(2) A police officer specified in subsection (1) may exercise the powers conferred under that subsection without a warrant where he has reason to believe that the contravention is taking place or is about to take place in a cinema hall, public place or any other place to which the public has access.

(3) The Authority or the Chief Fire Officer may enter any building or place specified in subsection (2) for the purpose of carrying out an inspection.

(4) A person who obstructs or hinders the Police, the Authority or the Chief Fire Officer in the exercise of their powers under this Act, or refuses to obey an order or direction given by the Police, the Authority or the Chief Fire Officer, shall commit an offence.

19. Public safety

(1) No person shall exhibit or permit the exhibition of a film in any building unless the building has previously been certified by—

- (a) the Authority as a fit and proper place for such exhibition; and
- (b) the Chief Fire Officer as being adequately protected against fire.

(2) The Authority or the Chief Fire Officer may refuse to grant the certificate under subsection (1) or may grant it subject to such conditions and restrictions as may be specified in the certificate.

(3) Where the Authority or the Chief Fire Officer has refused to grant a certificate, the reasons for such refusal shall be stated.

(4) Where any condition or restriction specified in the certificate under subsection (2) is not complied with, the building shall be deemed not to have been certified by the Authority or the Chief Fire Officer as a fit and proper place for the purpose specified in subsection (1).

(5) An appeal shall lie from any decision of the Authority or of the Chief Fire Officer to the District Magistrate of the district where the building is situated.

(6) (a) Every appeal before the District Magistrate shall be by plaint with summons, and shall be heard and determined according to the procedure prescribed by the District and Intermediate Courts (Civil Jurisdiction) Act.

(b) The plaint shall state the grounds of appeal, and the applicant shall not be allowed to adduce evidence on any ground which is not included in the plaint.

(7) The plaint shall be lodged with the District Clerk within 21 days after notification to, or service upon, the appellant of the decision, notice or order complained of.

(8) In giving his judgment in any appeal, the Magistrate may either dismiss the appeal absolutely or he may reverse and annul the decision appealed against, or he may amend the decision as he considers expedient and proper.

(9) Any of the parties aggrieved by the judgment of the Magistrate may appeal to the Supreme Court according to the procedure prescribed by section 37 of the District and Intermediate Courts (Civil Jurisdiction) Act.

(10) The decision of the Authority or Chief Fire Officer shall not be suspended pending the decision on appeal, unless the District Magistrate orders otherwise.

20. Protection from personal liability

No suit, prosecution or other legal proceedings shall lie against any person employed by the Board, or any other person acting under the direction of the Board, for anything done in good faith in the execution of this Act.

21. Offences

Any person who—

- (a) after having been admitted in any building for the purpose of attending an exhibition, creates any disturbance, makes any unnecessary noise, makes use of any improper language or gesture or smokes in the auditorium of that building;

- (b) admits a minor to an exhibition in breach of a condition imposed by the Board;
- (c) contravenes this Act or regulations made under this Act,

shall commit an offence.

22. Eviction from exhibition hall

(1) Where a police officer not below the rank of Police Sergeant has requested a person to desist from any conduct specified in section 21 (a) and that person fails to comply, the officer may, with such assistance and force as may be necessary, evict the person from a place where an exhibition is taking place.

(2) Any person evicted under subsection (1) shall not be entitled to refund of the price of the ticket paid for the exhibition, or part thereof.

23. Penalty

(1) Every person who commits an offence under this Act shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) The Court may, in addition to any penalty inflicted upon a convicted person under subsection (1)—

- (a) cancel his registration as a film importer, and disqualify him from being registered for such period as the Court may deem fit;
- (b) cancel any permit held by him, or suspend the permit for such period as the Court may deem fit;
- (c) order the forfeiture of any film, publicity material and any other material or appliance used in connection with the offence.

24. Regulations

(1) The Minister may make regulations for the purposes of this Act, and in particular, to provide for—

- (a) the duties of the Board;
- (b) the procedure relating to the classification of films and posters;
- (c) levying the fees and charges.

(2) Regulations made under subsection (1) may provide that any breach thereof shall be punishable by a fine not exceeding 10,000 rupees.

25. – 27. —
