

THEATRES, PUBLIC HALLS AND CINEMATOGRAPH FILMS ACT.

Act No. 44, 1937.

George VI,
No. 44, 1937.

An Act to make further provision in relation to the licensing and regulation of theatres and public halls and in relation to the exhibition of Australian cinematograph films; to amend the Theatres and Public Halls Act, 1908, and the Cinematograph Films (Australian Quota) Act, 1935, in certain respects; and for purposes connected therewith. [Assented to, 23rd December, 1937.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title
and division
into Parts.

1. (1) This Act may be cited as the "Theatres, Public Halls and Cinematograph Films Act, 1937."

(2)

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(2) This Act is divided into Parts as follows:—

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PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE THEATRES AND PUBLIC HALLS ACT, 1908.

PART III.—AMENDMENT OF THE CINEMATOGRAPH FILMS (AUSTRALIAN QUOTA) ACT, 1935.

PART II.

AMENDMENT OF THE THEATRES AND PUBLIC HALLS ACT, 1908.

2. (1) The Theatres and Public Halls Act, 1908, as amended by this Act, may be cited as the Theatres and Public Halls Act, 1908-1937. Amendment of Act No. 13, 1908.

(2) The Theatres and Public Halls Act, 1908, is amended by inserting after section thirteen the following new sections:— New secs. 13A, 13B.

13A. (1) No person shall, on or after the first day of March one thousand nine hundred and thirty-eight, exhibit a cinematograph film in any theatre or public hall unless the license held in respect of such theatre or public hall bears an endorsement in accordance with the regulations under the hand of the Minister or under the hand of any person appointed by him in that behalf specially authorising the exhibition of cinematograph films in such theatre or public hall. Exhibition of cinematograph films—prescribed endorsement.

Such endorsement is in this Part referred to as “the prescribed endorsement.”

This subsection shall not apply to or in respect of any cinematograph film referred to in paragraph (a), (b), (c), (d), (e), (f) or (g) of subsection one of section three of the Cinematograph Films (Australian Quota) Act, 1935.

(2) Where an application is made under this Part for the renewal of a license issued either before or after the commencement of the Theatres, Public Halls

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Halls and Cinematograph Films Act, 1937, the application may include an application for the prescribed endorsement.

(3) An application for the prescribed endorsement on a license issued under this Part, either before or after the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, and current at the date upon which the application is made, may be made at any time in accordance with the regulations.

(4) Where an application under this Part for an original license in respect of a proposed building has been made before the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, and such license has not been issued before such commencement, an application, in accordance with the regulations, may be made, at any time after such commencement, for the prescribed endorsement on the license if and when the same is issued.

(5) Where an application under this Part for an original license in respect of a proposed building is made after the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, an application in accordance with the regulations may be made at the same or any other time for the prescribed endorsement on the license, if and when the same is issued.

(6) (a) Where an application for the prescribed endorsement is included in an application under this Part for the renewal of a license, issued either before or after the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, and the theatre or public hall in respect of which the license is held has, during the period of six months immediately preceding the date upon which the application is made, been used wholly or mainly for the purpose of exhibiting cinematograph films, the application for the prescribed endorsement shall not be refused unless the application for renewal of the license is refused.

(b)

(b) Where an application is made for the prescribed endorsement on a license issued under this Part, either before or after the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, and current at the date of the application, and the theatre or public hall in respect of which the license is held has, during the period of six months immediately preceding the date upon which the application is made, been used wholly or mainly for the purpose of exhibiting cinematograph films, the application for the prescribed endorsement shall not be refused.

(c) In the application of paragraph (b) of this subsection in relation to a license which is an original license and which was issued during the period of six months immediately preceding the date of the application for the prescribed endorsement, the reference in that paragraph to the period of six months shall be construed as a reference to the period commencing upon the date of the issue of the license and ending on the date upon which such application is made.

(d) Where an application is made for the prescribed endorsement on any such original license as is referred to in subsection four of this section, and—

- (i) the plans and specifications for the proposed building have been approved before the date upon which the application is made; and
- (ii) it is reasonably clear, having regard to such plans and specifications, that the proposed building is intended to be used wholly or mainly for the purpose of exhibiting cinematograph films,

the application for the prescribed endorsement shall not be refused unless the application for such original license is refused.

(7) (a) An application for the prescribed endorsement made at any time after the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, and before the first day of
January

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January, one thousand nine hundred and thirty-nine, shall not be granted except with the approval of the Governor.

(b) Paragraph (a) of this subsection shall not apply to or in respect of an application which, pursuant to the provisions of subsection six of this section, shall not be refused.

(8) In this Part the expression "cinematograph film" shall have the meaning ascribed to it in the Cinematograph Films (Australian Quota) Act, 1935.

Theatres
and Public
Halls
Investiga-
tion
Committee.

13B. (1) As soon as practicable after the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, there shall be constituted a Theatres and Public Halls Investigation Committee (in this Part referred to as "the Committee").

(2) The Committee shall consist of three members.

One of such members shall be the person who for the time being holds the office of Under Secretary, Chief Secretary's Department.

The said Under Secretary shall be the chairman of the Committee.

(3) The Governor may appoint two other persons to be members of the Committee.

A person shall not be qualified to hold office under this subsection if he has any direct or indirect pecuniary interest in any trade or business connected with or relating to the production, distribution or exhibition of cinematograph films.

(4) Any two members of the Committee, one of whom shall be the chairman, shall form a quorum for the purpose of transacting any business of the Committee.

(5) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to the regulations, be as determined by the Committee.

(6)

(6) The members of the Committee, other than the chairman, may be paid such fees (if any) as the Governor may determine. No. 44, 1937.

(7) (a) The Committee shall, as soon as practicable after the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, conduct investigations in relation to matters affecting the administration of those provisions of this Act which relate to the licensing, control and regulation of theatres and public halls used or intended to be used for the exhibition of cinematograph films.

Without prejudice to the generality of the foregoing provisions of this paragraph the investigations referred to in those provisions shall include investigations as to the following matters:—

- (i) the standards of accommodation which should be required in any such theatre or public hall;
- (ii) the amount of any fees which should be prescribed in relation to the granting of any application for a license for any such theatre or public hall or for a prescribed endorsement, or in relation to any other application made under this Part;
- (iii) the general quality of cinematograph films which have been or are being exhibited in any such theatre or public hall, including the artistic and photographic merit of any such film, its appeal to the interest of the public generally and its entertainment value in any particular locality;
- (iv) the methods (if any) which should be adopted for regulating and controlling charges for admission to any such theatre or public hall, or for fixing the maximum amount or amounts which should be charged for such admission;
- (v) the methods which should be adopted in or in relation to any such theatre or public hall, in order to provide adequately for safeguarding

safeguarding the health and securing the safety, comfort and convenience of the public;

- (vi) any other relevant considerations affecting the public interest in relation to any such theatre or public hall or the exhibition of cinematograph films therein;
- (vii) the further laws which in the opinion of the Committee should be enacted in this State in relation to all or any of the matters mentioned in this paragraph.

(b) The Committee shall also investigate such matters as may from time to time be referred to it by the Minister.

(c) The Committee shall furnish to the Minister a report setting out the results of its investigations under this section together with such recommendations as it thinks fit.

The report shall be furnished not later than the thirtieth day of June one thousand nine hundred and thirty-eight and shall be accompanied by a draft Bill for the legislation necessary to give effect to its report and recommendations.

(3) The Theatres and Public Halls Act, 1908, is further amended by inserting after paragraph (a) of section thirty-one the following new paragraph:—

- (a1) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying this Act into effect.

Further
amendment
of Act No.
13, 1908.
Sec. 31.
(General
regulations.)

PART III.

AMENDMENT OF THE CINEMATOGRAPH FILMS
(AUSTRALIAN QUOTA) ACT, 1935.

3. (1) The Cinematograph Films (Australian Quota) Act, 1935, as amended by this Act, may be cited as the Cinematograph Films (Australian Quota) Act, 1935-1937.

Amendment
of Act No.
41, 1935.

(2) The Cinematograph Films (Australian Quota) Act, 1935, is amended—

Sec. 4 (1),
(2) & (3).

(Distributors' quota.)

(a) (i) by omitting subsections one, two and three of section four and by inserting in lieu thereof the following subsections:—

(1) (a) Of the total number of "quota" films, other than British "quota" films, acquired by a distributor for the purposes of his business in either the year commencing on the first day of January one thousand nine hundred and thirty-eight or the year commencing on the first day of January one thousand nine hundred and thirty-nine, it shall be his duty to acquire and make available for distribution in that year not less than the proportion of Australian "quota" films which is equivalent to three per centum.

(b) Of the total number of "quota" films, other than British "quota" films acquired by a distributor for the purposes of his business in the year commencing on the first day of January one thousand nine hundred and forty or in any subsequent year, it shall be his duty to acquire and make available for distribution in that year not less than the proportion of Australian "quota" films fixed by the Governor, pursuant to section 6A of this Act, for that year.

(c) Where the result obtained in calculating the proportion under this subsection includes a fraction, the result shall be increased by one, and the fraction shall be disregarded.

(d)

(d) For the purpose of calculating the proportion under this section no Australian "quota" film shall be counted more than once, nor shall any such film be counted by more than one distributor.

(e) Provided always that where a distributor has in any year acquired an Australian "quota" film, and the contract under which such film is acquired provides—

- (i) that the distributor shall pay to the producer in respect of the exhibition of such film elsewhere than in the Commonwealth of Australia and the Dominion of New Zealand, a sum not less than ten thousand pounds; and also
- (ii) that the distributor shall, within six months after the date upon which the film has been acquired by him, pay to the producer the sum of five thousand pounds in reduction of the amount referred to in subparagraph (i) of this paragraph,

the film so acquired may, in respect of its exhibition elsewhere than in the Commonwealth of Australia and the Dominion of New Zealand, be counted in that year as one Australian "quota" film for the purposes of this subsection.

(2) If in any year a distributor is unable to comply with the requirements of subsection one of this section by obtaining possession of films for the purpose of hiring or selling the same it shall be his duty to produce or cause to be produced and to make available for distribution in that year a sufficient number of Australian "quota" films to enable him to comply with such requirements.

(ii)

- (ii) by omitting from subsection four of the same section the words "For the purpose of enabling the Minister to exercise the powers conferred upon him by the provisions of this section"; No. 44, 1937.
- (iii) by omitting from subsection five of the same section the words "of the years specified in the First Schedule" and by inserting in lieu thereof the word "year";
- (iv) by omitting from the same subsection the words "or with those requirements as modified in accordance with subsection two of this section";
- (v) by omitting subsection six of the same section;
- (b) by omitting from section five the words "of the years specified in the First Schedule" and by inserting in lieu thereof the word "year." Sec. 5.
(Small
businesses.)
- (3) Subsection two of this section shall commence on the first day of January one thousand nine hundred and thirty-eight.
- (4) Where a distributor satisfies the Films Advisory Committee on or before the thirty-first day of March one thousand nine hundred and thirty-eight—
- (a) that he has made all arrangements necessary to enable him to comply with the provisions of section four of the Cinematograph Films (Australian Quota) Act, 1935-1937, in respect of the year commencing on the first day of January one thousand nine hundred and thirty-eight; or
- (b) that he has made any arrangement which will materially assist the development of the film production industry in New South Wales,
- the Minister may, if the Films Advisory Committee so recommends, exempt him from liability for failure to comply with the provisions of section four of the Cinematograph Films (Australian Quota) Act, 1935, in respect of the year commencing on the first day of January one thousand nine hundred and thirty-seven.
- (5).

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Sec. 6.

(Exhibitors' quota.)

(5) The Cinematograph Films (Australian Quota) Act, 1935, is further amended—

(a) by omitting subsection one of section six and by inserting in lieu thereof the following subsection:—

(1) (a) Of the total number of "quota" films exhibited by any exhibitor in either the year commencing on the first day of July one thousand nine hundred and thirty-eight or in the year commencing on the first day of July one thousand nine hundred and thirty-nine it shall be his duty to exhibit, in that year, in each theatre in which he exhibits films, not less than the proportion of Australian "quota" films which is equivalent to two and one-half per centum.

(b) Of the total number of "quota" films exhibited by any exhibitor in the year commencing on the first day of July one thousand nine hundred and forty, or in any subsequent year, it shall be his duty to exhibit, in that year, in each theatre in which he exhibits films, not less than the proportion of Australian "quota" films fixed by the Governor pursuant to section 6A of this Act for that year.

(c) Where the result obtained in computing the proportion under this subsection includes a fraction, the result shall be increased by one and the fraction shall be disregarded.

(b) by omitting from subsection five of the same section the words "of the years specified in the Second Schedule" and by inserting in lieu thereof the word "year";

(c) by omitting subsection six of the same section.

(6) Subsection five of this section shall commence on the first day of July one thousand nine hundred and thirty-eight.

New sec. 6A.

(7) The Cinematograph Films (Australian Quota) Act, 1935, is further amended—

(a) by inserting after section six the following new section:—

6A. (1) The Films Advisory Committee, constituted under this Act, shall make inquiries annually as to the extent of the production of Australian

Quotas to be fixed by the Governor.

Australian "quota" films, and shall, during the period of three months next preceding the first day of September one thousand nine hundred and thirty-nine and during the corresponding period in each subsequent year furnish to the Governor a report setting out the results of such inquiries.

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The report shall be accompanied by the following recommendations:—

- (a) A recommendation setting out the proportion of Australian "quota" films which, in the opinion of the Films Advisory Committee, should be fixed by the Governor as the minimum proportion to be acquired by a distributor for the purposes of his business and made available for distribution pursuant to subsection one of section four of this Act, in the year commencing on the first day of January next following the date upon which the report is furnished.
- (b) A recommendation setting out the proportion of Australian "quota" films which, in the opinion of the Films Advisory Committee, should be fixed by the Governor as the minimum proportion to be exhibited by an exhibitor pursuant to subsection one of section six of this Act in the year commencing on the first day of July next following the date upon which the report is furnished.

(2) After considering the report and recommendations of the Films Advisory Committee the Governor shall, as soon as practicable, by notification published in the Gazette—

- (a) fix the minimum proportion of Australian "quota" films which shall be acquired by a distributor for the purposes of his business and made available for distribution pursuant to subsection one of section four of this Act
in

No. 44, 1937.

in the year commencing on the first day of January next following the date upon which the report is furnished.

- (b) fix the minimum proportion of Australian "quota" films which shall be exhibited by an exhibitor pursuant to subsection one of section six of this Act in the year commencing on the first day of July next following the date upon which the report is furnished.

New sec. 7A.

- (b) by inserting after section seven the following new section:—

Right of exhibitor to reject twelve and one-half per centum of foreign films.

7A. (1) Notwithstanding anything contained in any contract entered into by an exhibitor, whether before or after the commencement of the Theatres, Public Halls and Cinematograph Films Act, 1937, for the supply to him, for exhibition, of any films, such exhibitor shall, subject to the provisions of this section and without incurring any liability for breach of contract, have the right to reject up to twelve and one-half per centum of the number of films (other than Australian and British films) proposed to be delivered to him in terms of that contract. Where for the purpose of this subsection twelve and one-half per centum of any number of films is not a whole number such percentage shall be deemed to be the nearest whole number:

Provided always that this subsection shall not apply to any contract for the hire of any film or films manufactured or produced within the British Empire.

(2) Notice of intention to reject any film pursuant to the right conferred by this section shall be given by the exhibitor to the distributor or other supplier not less than twenty-eight days before the proposed date of exhibition in cases where advice as to the name of the film has been received by the exhibitor at least six weeks prior to the aforesaid date; in any other case the notice required to be given by the exhibitor may be given

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given at any time within fourteen days after the receipt by him of advice as to the name of the film. No. 44, 1937.

(2) The right of rejection of films conferred by this section shall be in addition to the right of rejection of films conferred by section seven of this Act.

(8) (a) The Cinematograph Films (Australian Schedules. Quota) Act, 1935, is further amended—

- (i) by omitting the First Schedule;
- (ii) by omitting the Second Schedule.

(b) The amendment made by subparagraph (i) of paragraph (a) of this subsection shall commence on the first day of January, one thousand nine hundred and thirty-eight.

(c) The amendment made by subparagraph (ii) of paragraph (a) of this subsection shall commence on the first day of July, one thousand nine hundred and thirty-eight.

