

**THEATRES AND PUBLIC HALLS AND CINEMATO-
GRAPH FILMS (AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 12, 1971.

An Act to make further provisions with respect to the licensing of theatres and public halls and the censorship, distribution and exhibition of certain cinematograph films; for these and other purposes to amend the Theatres and Public Halls Act, 1908, and the Cinematograph Films (Australian Quota) Act, 1935; and for purposes connected therewith. [Assented to, 14th May, 1971.]

BE

Theatres and Public Halls and Cinematograph Films (Amendment).

No. 12, 1971 **BE** it enacted by the Queen'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 :—

Short title. **1.** This Act may be cited as the "Theatres and Public Halls and Cinematograph Films (Amendment) Act, 1971".

Amendment of Act No. 13, 1908. **2.** (1) The Theatres and Public Halls Act, 1908, is amended—

Sec. 16. (Suspension or cancellation of license.) (a) by inserting at the end of section sixteen the following new subsection :—

(3) The Minister may cancel a license upon the written request of the holder thereof.

Sec. 26A. (Commencement and operation of this Part.) (b) by omitting subsection two of section 26A and by inserting in lieu thereof the following subsection :—

(2) Where no arrangement under section 26C of this Act has been made or such an arrangement is terminated—

(a) the provisions of this Part shall not have any force or effect except for the purpose of enabling—

(i) an arrangement to be made, or an arrangement to be made and an agreement relating thereto to be entered into, under that section;

(ii) a notice of the making or termination of an arrangement to be published under that section; or

(iii) regulations to be made for the purposes of this Part; and

(b)

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- (b) the provisions of the regulations made for the purposes of this Part shall not have any force or effect, No. 12, 1971

but, where an arrangement is subsequently made under that section, those provisions shall, subject, in the case of the regulations, to anything contained in the regulations, have full force and effect upon the coming into operation of that arrangement.

- (c) by omitting from the definition of "film" in section 26B the words "film used" and by inserting in lieu thereof the words "film or video tape used"; Sec. 26B.
(Interpretation.)

- (d) (i) by omitting from subsection two of section 26C the words "subsection one of"; Sec. 26c.
(Power to arrange with Commonwealth as to discharge, etc., of duties, etc.)
- (ii) by inserting at the end of the same section the following new subsection : —
- (4) Where any arrangement under this section is made or terminated, a notice of that fact and of the date of the making or termination of the arrangement, as the case may be, shall be published in the Gazette as soon as practicable thereafter.

- (e) by inserting at the end of section 26G the following new subsections :— Sec. 26G.
(Duty of censor to examine films.)

(2) A censor may require the picture proposed to be exhibited from any film submitted to him for registration to be exhibited for his inspection.

(3) The exhibition of a picture required under subsection two of this section shall be carried out at the expense and risk of the applicant for registration of the film referred to in that subsection.

(f)

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Sec. 26H.
(Registra-
tion and
classifica-
tion of
films.)

(f) by omitting subsection two of section 26H and by inserting in lieu thereof the following subsection :—

(2) Where a censor registers a film under subsection one of this section, the censor shall classify the film as being, in his opinion—

- (a) for general exhibition;
- (b) not recommended for children;
- (c) for mature audiences; or
- (d) for restricted exhibition.

New sec.
26HA.

(g) by inserting next after section 26H the following new section :—

Attendance
of children
at restricted
exhibition
picture.

26HA. (1) In this section, "restricted exhibition picture" means picture from a film classified in accordance with subsection two of section 26H of this Act as being for restricted exhibition.

(2) If a person who has attained the age of six years and who has not attained the age of eighteen years is present at the exhibition of a restricted exhibition picture in a theatre or public hall, the person exhibiting the picture therein is guilty of an offence against this Part in respect of each such person who is so present.

(3) A person who has attained the age of fourteen years and who has not attained the age of eighteen years is guilty of an offence against this Part if he is present at the exhibition of a restricted exhibition picture in a theatre or public hall.

(4) Subject to subsection six of this section, a person who has attained the age of eighteen years is guilty of an offence against this Part if he causes, permits or allows a person who

has

has attained the age of six years and who has not attained the age of eighteen years to be present at the exhibition of a restricted exhibition picture in a theatre or public hall. No. 12, 1971

(5) It shall be a defence to a prosecution for an offence under subsection two of this section if the person charged proves—

- (a) that he took all such steps as are reasonable in the circumstances to avoid being guilty of the alleged offence; or
- (b) that he or his servant or agent had reasonable grounds for believing, and did in fact believe, that the person in respect of whom the alleged offence was committed had attained the age of eighteen years, or had not attained the age of six years, at the time of the alleged offence.

(6) A person is not guilty of an offence under subsection four of this section if he is the person exhibiting the picture referred to in that subsection or if he is the servant or agent of the person exhibiting that picture.

(7) It shall be a defence to a prosecution for an offence under subsection four of this section if the person charged proves that he had reasonable grounds for believing, and did in fact believe, that the person in respect of whom the alleged offence was committed had attained the age of eighteen years or had not attained the age of six years at the time of the alleged offence.

(8) Any member of the police force may demand from any person admitted to a theatre or public hall in which a restricted exhibition picture is being exhibited or about to be exhibited or has just been exhibited, and whom he has reasonable

cause

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cause to suspect not to have attained the age of eighteen years, the correct age, name and address of that person, and if he has reasonable grounds to believe that the age, name or address so given is false, may require that person to produce, within a reasonable time, evidence of the correctness of the age, name or address given by that person.

(9) Every person who refuses or fails without reasonable cause to comply with a demand made as referred to in subsection eight of this section shall be guilty of an offence against this Part.

Sec. 26K.
(No registration in certain cases.)

- (h) by inserting in subsection one of section 26K after the word "censor" where secondly occurring the words "and having regard to the manner in which he would in accordance with subsection two of that section classify the film if it were so registered";

Sec. 26M.
(Films to be exhibited in form registered.)

- (i) by omitting subsection two of section 26M and by inserting in lieu thereof the following subsection :—

(2) Where a registered film is altered or added to in any manner, and it has not been registered as so altered or added to, the film as so altered or added to shall be deemed not to have been registered.

Sec. 26N.
(Sample copies of posters, slides, etc., to be submitted for approval when required.)

- (j) by omitting subsection five of section 26N and by inserting in lieu thereof the following subsection :—

(5) Where a sample copy is altered or added to in any manner, and it has not been approved as so altered or added to, the sample copy as so altered or added to shall be deemed not to have been approved.

(k)

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- (k) by inserting at the end of section 26s the following new subsection :—

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 Sec. 26s.
 (Penalty for publication of posters, advertisements, etc., as to films not registered or sample copies not submitted or not approved.)

(2) In any proceedings for an offence against this Part arising under subsection one (paragraph (b) excepted) of this section, without affecting the liability of any other person for any offence against this Part arising under that subsection, the person who customarily exhibits pictures in a theatre or public hall shall, in the absence of evidence to the contrary, be deemed to have published, distributed, exhibited, or disseminated any poster, photograph, sketch, programme, slide or advertisement or written, printed or oral matter in the nature of an advertisement of or with respect to a film or portion of a film if that poster, photograph, sketch, programme, slide, advertisement or matter contains a statement to the effect that, or indicates that, a picture is to be exhibited in that theatre or public hall from that film or portion of a film.

- (l) by omitting section 26v and by inserting in lieu thereof the following section :—

Subst. sec. 26v.

26v. (1) Every person who contravenes or fails to comply with any provision of this Part is guilty of an offence against this Part.

Offences and penalties.

(2) Every person who is guilty of an offence against this Part for which no penalty is expressly provided shall be liable to a penalty not exceeding one hundred dollars.

- (m) (i) by omitting from section 26w the words “an advertisement” wherever occurring and by inserting in lieu thereof the words “a poster, photograph, sketch, programme, slide or advertisement or written, printed or oral matter in the nature of an advertisement”;

Sec. 26w.
 (Evi-
 dence.)

(ii)

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(ii) by inserting at the end of the same section the following new subsections : —

(2) In any proceedings for an offence against this Part, a copy of the Gazette containing a notice published under section 26c of this Act in respect of the making of an arrangement under that section, or an extract from that Gazette of that notice (being an extract printed or purporting to have been printed by the Government Printer), shall be prima facie evidence that the arrangement was duly made and that the arrangement was in operation at the time of the alleged offence.

(3) In any proceedings for an offence against this Part, a certificate, signed or purporting to be signed by the person for the time being holding office or acting as the Under Secretary of the Chief Secretary's Department, and stating—

- (a) that an arrangement was duly made under section 26c of this Act and that the arrangement was in operation on any day or during any period specified in the certificate; or
- (b) that a person specified in the certificate was a censor on any day or during any period specified in the certificate,

shall be prima facie evidence of the matters so stated in the certificate.

(2) Paragraph (a) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Theatres and Public Halls and Cinematograph Films (Amendment).

3. (1) The Cinematograph Films (Australian Quota) Act, 1935, is amended—

Amendment
of Act No.
41, 1935.

- (a) by inserting in the long title after the word “films” the words “and for regulating the distribution and exhibition of cinematograph films”; Long title.
- (b) by omitting from subsection one of section one the words “(Australian Quota)”; Sec. 1.
(Short title.)
- (c) by omitting from the definition of “Cinematograph film” in section two the words “film used” and by inserting in lieu thereof the words “film or video tape used”; Sec. 2.
(Interpretation.)
- (d) by inserting next after section 7A the following new section :— New sec. 7B.

7B. (1) In this section, “restricted exhibition film” means film classified in accordance with subsection two of section 26H of the Theatres and Public Halls Act, 1908, as being for restricted exhibition. Right of exhibitor to reject restricted exhibition films.

(2) Notwithstanding anything contained in any contract entered into by an exhibitor, whether before or after the commencement of Part IIIA of the Theatres and Public Halls Act, 1908, 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 any restricted exhibition film proposed to be delivered to him in terms of that contract.

(3) 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

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as to the name of the film, and of its classification in accordance with subsection two of section 26H of the Theatres and Public Halls Act, 1908, 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 at any time within fourteen days after the receipt by him of advice as to the name of the film and of its classification as aforesaid.

(4) The right of rejection of films conferred by this section shall be in addition to the right of rejection of films conferred by sections seven and 7A of this Act.

(5) Where a contract referred to in subsection two of this section purports to negative or is inconsistent with the right of rejection of films conferred by this section on an exhibitor so referred to, the contract—

(a) shall be read and construed subject to that right of rejection; and

(b) shall be in force accordingly.

(6) This section has effect notwithstanding anything contained in section 11B of this Act.

(7) Where no arrangement under section 26C of the Theatres and Public Halls Act, 1908, has been made or such an arrangement is terminated, the provisions of this section shall not have any force or effect, but, where an arrangement is subsequently made under that section, those provisions shall have full force and effect upon the coming into operation of that arrangement.

(2)

Theatres and Public Halls and Cinematograph Films (Amendment).

(2) The Theatres and Public Halls Act, 1908, is further amended—

Further amendment of Act No. 13, 1908. (Consequential.)

(a) by omitting from the definition of "Commission" in subsection one of section four the symbol and figures "-1938";

Sec. 4. (Definitions.)

(b) (i) by omitting from subsection one of section 13A the words "Cinematograph Films (Australian Quota) Act, 1935, as amended by subsequent Acts" and by inserting in lieu thereof the words "Cinematograph Films Act, 1935";

Sec. 13A. (Exhibition of cinematograph films—prescribed endorsement.)

(ii) by omitting from subsection eight of the same section the words "(Australian Quota)".

(3) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

ADOPTION