

Seychelles

Film Classification Board Act Act 2 of 1994

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Film Classification Board Act

Act 2 of 1994

Commenced on 1 April 1994

[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]

1. Short title

This Act may be cited as the Film Classification Board Act.

2. Interpretation

In this Act—

"**authorised officer**" means any person appointed by the Minister to be an authorised officer for the purposes of this Act;

"**Board**" means the Film Classification Board established by [section 3](#);

"**child**" means a person under 18 years of age;

"**exempted film**" means a film—

- (a) depicting an event or occasion intended for viewing by persons who took part in the event or occasion or are connected with those who did so and does not depict—
 - (i) any sexual activity or acts of force or restraint associated with such activity;
 - (ii) mutilation or torture of or other acts of gross violence towards human beings or animals; or
 - (iii) human genital organs, or human urinary or excretory functions; or
- (b) not intended for exhibition in a public place or for sale or hire and does not depict any matter specified in paragraph (a)(i); (ii) or (iii); or
- (c) if taken as a whole is principally—
 - (i) designed to inform, educate or instruct;
 - (ii) concerned with sport or religion;
 - (iii) a video game; or
 - (iv) a spot coverage of news,

and will not tend to encourage or incite violence hatred or contempt.

"**film**" means any form of video recording or any part thereof whether on disc, tape or other medium and includes both cinematograph film and television film but does not include an exempted film;

"**member**" means a member of the Board appointed under [section 3\(2\)](#);

"**public place**" includes any building or place to which, for the time being, the public are entitled or permitted to have access either without any condition or upon condition of receiving permission or of making any payment and any building or place which is, for the time being, used for showing of films and includes clubs, hotels or other premises but does not include a private home or residence;

3. Board

- (1) There is hereby established the Film Classification Board.

- (2) The Board shall consist of such members as the Minister may appoint.
- (3) The Minister may designate one of the members appointed under subsection (2) as the Chairman of the Board.
- (4) The members may be paid such allowance as the Minister may determine.
- (5) Subject to this Act, the Board regulates its own procedure.

4. Functions of the Board

- (1) The Board shall determine whether any film is suitable for viewing either generally or subject to restrictions.
- (2) For the purposes of a determination under subsection (1) the Board may—
 - (i) view the film;
 - (ii) test the quality of its recording;
 - (iii) require any excisions to be made therefrom; and
 - (iv) classify the film.
- (3) Where the Board determines—
 - (a) that the film is suitable for viewing, it shall issue a classification certificate in respect of the film in terms of [section 5](#);
 - (b) that the film is not suitable for viewing it shall refuse to approve the film for viewing.
- (4) Where the Board is satisfied that the quality of recording of a film has, since the issue of a classification certificate in respect of that film, diminished either by usage or for any other reason, the Board may withdraw the classification certificate and determine the film as one not suitable for viewing.
- (5) The Board shall communicate in writing its determination under subsection (3) or (4), as the case may be, to the person submitted or had submitted under [section 7](#) the film for its determination.
- (6)
 - (a) For the purpose of a determination under subsection (1), 2 members of the Board shall form a quorum.
 - (b) The Board may regulate its own procedures for the purposes of determination under subsection (4).
- (7) The Board may in connection with any determination levy such fees as may be prescribed and the fees when recovered shall be credited to the Consolidated Fund.
- (8) The Board may refuse to make a determination under this section until the fees prescribed in connection with the determination are paid to the Board.
- (9) The Board shall keep a record of its determination under this section in such form and for such period as may be prescribed.

5. Contents of classification certificates

- (1) A classification certificates issued under [section 4\(3\)](#) (a) shall contain—
 - (a) a statement that the film is suitable for general viewing with or without any advise as to the desirability of parental guidance with regard to the viewing of the film by a child or as to the suitability of the film for viewing by a child; or

- (b) a statement that the film is suitable for viewing only by persons who have attained the age specified in the certificate and that the film shall not be exhibited, sold or hired out to any person who has not attained that age.
- (2) A classification certificate issued under [section 4\(3\)\(a\)](#) in respect of a film may contain different statements for different circumstances.
- (3) The Board shall require that any film in respect of which a classification certificate has been issued shall contain either on the film or on any spool, case or other thing on or in which the film is kept an indication of the contents of the classification certificate in such form and manner as the Board may determine.

6. Appeal

- (1) Any person aggrieved by a determination of the Board under [section 4](#) may, within 14 days of the receipt of the determination communicated under [section 4\(5\)](#), appeal to the Minister against the determination.
- (2) The Minister may, having regard to the representations made by the appellant and the Board, either reverse or affirm the determination of the Board.
- (3) When the Minister reverses a determination of the Board, the Board shall give effect to the decision of the Minister.

7. Submission of film for determination

- (1) A person who in the course of a business or trade exhibits for viewing in a public place or sells or hires out a film shall before such exhibition, sale or hire submit the film to the Board for its determination under [section 4](#).
- (2) A person who provides a broadcasting service shall before transmission of a film for viewing on a television receiver submit the film to the Board for its determination under [section 4](#).

8. Exhibition, etc. of films not approved for viewing

A person shall not—

- (a) exhibit a film for viewing in a public place;
- (b) sell a film;
- (c) hire out a film for viewing in a public place or in a private home or residence;
- (d) transmit a film for viewing on a television receiver,

before the Board makes a determination under [section 4](#) or where the Board has determined under [section 4](#) that the film is not suitable for viewing.

9. Possession of films not approved for viewing

- (1) A person shall not have in his possession for—
 - (a) exhibiting or transmitting for viewing in a public place or on a television receiver;
 - (b) sale or hire,a film which has been determined by the Board as a film not suitable for viewing.
- (2) When a film is found in a place where facilities are provided for exhibiting, transmitting, sale or hire of a film, it shall be presumed, unless the contrary is established, in any proceedings for the contravention of subsection (1), that the film was intended for exhibiting, transmitting, sale or hire.

10. Exhibition etc. of films for persons under a specified age

- (1) Where a classification certificate in respect of a film contains a statement that the film is suitable for viewing by persons who have attained an age specified in the certificate, a person shall not exhibit for viewing in a public place, sell or hire out the film to a person who has not attained that age.
- (2) It is a defence in proceedings for a contravention of subsection (1), that there were reasonable grounds to believe that the person to whom the film was exhibited, sold or hired out had attained the age specified in the certificate.
- (3) Where a film referred to in subsection (1) is transmitted for viewing on a television receiver, a statement that the film is suitable for viewing by persons who have attained the age specified in the certificate shall be transmitted for viewing immediately before the transmission of the film.

11. Film or advertisement to contain indication of classification certificate

Where a classification certificate has been issued in respect of a film, a person shall not exhibit for viewing in a public place, advertise, sell or hire out the film where it does not contain either on the film or on the spool, case or other thing on or in which the film is kept the indication required by [section 5\(3\)](#) or the advertisement does not contain such an indication or where the film, spool, case, thing or advertisement contains a false or inaccurate indication.

12. Offences and penalty

- (1) Any person who contravenes [section 8](#), [9](#), [10](#) or [11](#) is guilty of an offence.
- (2) Any person guilty of an offence under subsection (1) by contravening [section 8](#) or [10](#) is liable on conviction to a fine of R20,000 or to imprisonment for 12 months.
- (3) Any person guilty of an offence under subsection (1) by contravening [section 9](#) or [11](#) is liable on conviction to a fine of R10,000 or to imprisonment for 6 months.
- (4) In convicting a person for an offence under this section the court may, in addition to any other penalty, forfeit to the Republic the film in respect of which the offence is committed, if the court considers it fit to do so.
- (5) A film forfeited under subsection (4) may be disposed of in such manner as the Minister may direct.

13. Entry and search of premises

- (1) An authorised officer may enter any premises kept or used for exhibiting or transmitting for viewing or for sale or hire of films for the purposes of ascertaining whether the provisions of this Act are being complied with and may question any person found thereon.
- (2) An authorised officer may, where he has reasonable grounds to suspect that—
 - (a) any offence under this Act has been or is being committed on any premises; or
 - (b) evidence that the offence has been or is being committed is on the premises,enter and search those premises and seize anything found therein which he has reasonable grounds to believe may be required to be used in evidence for an offence under this Act.
- (3) An authorised officer shall, if so requested, produce his authority to exercise the powers under this section.
- (4) Any person who wilfully obstructs an authorised officer in the exercise of the powers under subsection (1) or (2) is guilty of an offence and liable on conviction to a fine of R10,000 or to imprisonment for 6 months.

14. Directions of Minister

- (1) The Minister may give directions on the policy to be followed by the Board as to the exercise of its functions under the Act.
- (2) In the exercise of his powers under subsection (1) the Minister shall not give a direction to the Board with respect to a particular person or a film.

15. Approval by or under any other law

Where by or under any other law, any reference is made to any person or Ministry whose approval is required for any exhibition, sale or hire of a film such reference shall be read and construed as a reference to the Board.

16. Regulations

- (1) The Minister may make regulations for carrying into effect the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1) regulations made under that subsection may provide for—
 - (a) matters relating to exhibition, transmission, sale or hire of films;
 - (b) matters necessary or required to be prescribed;
 - (c) offence and penalties in respect of those offences.

17. Exemptions

The provisions of this Act shall not apply to an exhibition of a film—

- (a) before the Board for the purposes of its determination under [section 4](#);
- (b) pursuant to an order of court for the purposes of the proceedings before the court.