



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 82 of 1971

An Act to provide for the classification of films intended for public exhibition; and for other purposes.

[Assented to 25th November, 1971]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Film Classification Act, 1971". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. In this Act, unless the contrary intention appears— Interpretation.

"advertisement" in relation to a film means any extract from the film, or any poster, photograph, sketch, programme, slide or written or printed matter used or intended to be used to advertise or publicise the film:

"cinematograph" means a cinematograph or any other apparatus for the exhibition of moving pictures:

"corresponding law" means a law of any other State or Territory of the Commonwealth declared by regulation to be a corresponding law for the purposes of this Act:

"exhibitor", in relation to a film, means a person who arranges for, or causes, the film to be exhibited, and includes a person who has the superintendence or management of a theatre in which the film is exhibited; and "to exhibit" means to exhibit the images contained in a film by means of a cinematograph:

“film” means a film for use in a cinematograph and includes any part of, or extract from, any such film:

“restricted classification” means a classification under paragraph (d) of subsection (2) of section 4 of this Act:

“theatre” means any place whether enclosed, partly enclosed, or unenclosed in which a film is exhibited whether admission thereto is open to members of the public or restricted to persons who are members of a club or who possess any other qualification or characteristic and whether admission is or is not procured by the payment of money or on any other condition.

Film not to be
exhibited unless
classified.

4. (1) A film shall not be exhibited in a theatre unless a classification has been assigned to the film in accordance with subsection (2) of this section.

(2) The film must be assigned one of the following classifications either in pursuance of a corresponding law, or by the Minister:—

(a) for general exhibition;

(b) not recommended for children;

(c) for mature audiences;

(d) for restricted exhibition;

or

(e) such other classification as may be prescribed.

(3) If a film is exhibited in contravention of subsection (1) of this section, the exhibitor shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Alteration of
classified film
prohibited.

5. (1) Where a classification has been assigned to a film pursuant to a corresponding law, or by the Minister under this Act, the film shall not be exhibited with any alteration or addition made since it was submitted for classification unless the alteration or addition has been approved in writing pursuant to the provisions of the corresponding law or by the Minister.

(2) This section does not apply to an alteration or addition made for the purpose of repairing a film or for any other technical purpose connected with the exhibition of the film.

(3) If a film is exhibited in contravention of subsection (1) of this section, the exhibitor shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

6. (1) Where a child between the age of two years and eighteen years is in a theatre at any time when a film, to which a restricted classification has been assigned, is being, or is about to be, exhibited, the exhibitor shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

Children between age of two and eighteen years not to be admitted to exhibition of film bearing restricted classification.

(2) It shall be a defence to a prosecution under subsection (1) of this section that—

(a) the defendant took reasonable precautions designed to ensure that any such persons were not admitted to the exhibition of the film;

or

(b) the defendant, or a person to whom the responsibility of admitting persons to the exhibition of the film was entrusted, believed on reasonable grounds that the child to whom the charge relates had not attained the age of two years, or had attained the age of eighteen years.

(3) Where a child between the age of sixteen years and eighteen years is in a theatre at any time when a film, to which a restricted classification has been assigned, is being, or is about to be, exhibited, he shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

(4) This section does not apply in respect of a child who has attained the age of sixteen years and who is employed by an exhibitor in the performance of duties and functions in connection with the operation of the cinematograph used for the exhibition of the film.

7. (1) The Governor may, by proclamation—

Exemption.

(a) exempt from the operation of this Act to such extent as may be provided in the proclamation films of any specified class;

and

(b) provide that any provisions of this Act shall apply with such modifications (if any) as the Governor thinks fit and specifies in the proclamation, in respect of films of of any class so exempted,

and the operation of this Act shall be modified accordingly.

(2) The Minister may in any particular case by direction in writing under his hand, exempt any film from the operation of this Act to the extent specified in the direction and the operation of this Act in relation to that film shall be modified accordingly.

Advertisements.

8. (1) Every advertisement published in connection with the exhibition of a film must state the classification of the film under this Act, either in full, or by the use of a prescribed symbol, and that statement or symbol must be such as to be clearly visible having regard to the size and nature of the advertisement.

(2) A person who publishes or causes to be published an advertisement that does not comply with subsection (1) of this section shall be guilty of an offence and liable for a first offence to a penalty not exceeding fifty dollars, and for a second or subsequent offence to a penalty not exceeding two hundred dollars.

(3) The classification assigned to a film in accordance with this Act, or a prescribed symbol denoting that classification, must be exhibited so as to be clearly visible by those seeking admission to the theatre in which the film is to be exhibited prior to their admission to the theatre.

(4) If the classification assigned to a film is not exhibited as required by subsection (3) of this section, the exhibitor shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

**Illegal
publication of
advertisement,
etc.**

9. (1) A person who—

(a) publishes or causes to be published an advertisement relating to a film to which a classification has not been assigned in accordance with this Act;

or

(b) prints, publishes or distributes, or causes to be printed, published or distributed any photographic or other reproduction from a film to which a classification has not been assigned in accordance with this Act,

shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

(2) The Minister may, by instrument in writing served personally or by post upon any person responsible for, or engaged in, the sale, leasing, distribution or exhibition of any film, require that all advertisements to be used in connection with the exhibition of the film be submitted to him for approval.

(3) Where the Minister, or a person or authority acting in pursuance of a corresponding law, has required that advertisements to be used in connection with the exhibition of a film be submitted for approval, no person shall cause an advertisement to be published in connection with the exhibition of the film otherwise than in a form approved by the Minister, or approved in accordance with a corresponding law.

Penalty: Two hundred dollars.

(4) It shall be a defence to a prosecution under subsection (3) of this section that the defendant did not know, and could not reasonably be expected to have known of the requirement.

10. In any proceedings for an offence under this Act, an apparently genuine document purporting to be signed by the Minister— Evidentiary provision.

(a) stating that a classification has or has not been assigned to a film in accordance with this Act;

(b) stating the classification assigned to a film in accordance with this Act;

or

(c) stating that an advertisement, referred to in the notice, was required by this Act to be approved by the Minister or in accordance with a corresponding law, and the advertisement was, or was not, so approved,

shall be *prima facie* evidence of the matter so stated.

11. (1) A person authorized in writing by the Minister, or a member of the police force may, without charge, enter any theatre in which he believes a film is being or is about to be exhibited in order to ascertain whether the provisions of this Act are being complied with. Power of entry.

(2) A person shall not hinder a person authorized in writing by the Minister or a member of the police force in the exercise of his powers under this section.

Penalty: Two hundred dollars.

12. Proceedings in respect of offences under this Act shall be disposed of summarily. Summary proceedings.

13. Where a body corporate is guilty of an offence under this Act every member of the governing body of the body corporate, or person in the employment, or acting in the affairs, of the body corporate, who knowingly authorizes or permits the commission of the offence shall also be guilty of an offence and liable to any penalty prescribed for the principal offence. Bodies corporate.

Regulations.

14. The Governor may make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act, and, without limiting the generality of the foregoing, those regulations may—

- (a) require that the classification assigned to a film be published in accordance with the regulations prior to the exhibition of the film;
- (b) prescribe any form for the purposes of this Act;
- (c) make provision for the issue of certificates of classification; and
- (d) impose penalties (recoverable summarily) not exceeding one hundred dollars for contravention of, or non-compliance with, any regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. M. NAPIER, Lieutenant-Governor