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SINDH ACT NO.IV OF 2012

THE SINDH MOTION PICTURES ACT, 2011.

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SINDH ACT NO.IV OF 2012

THE SINDH MOTION PICTURES ACT, 2011.

[14th February, 2012]

An Act to provide of the censorship of films and the regulation of exhibition of films by means of cinematographs.

Preamble.

WHEREAS it is expedient to provide for the censorship of films and the regulation of exhibition of films by means of cinematographs, and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

Short title and commencement.

1. (1) This Act may be called the Sindh Motion Pictures Act, 2011.

(2) It shall extend to the whole of the Province of Sindh.

(3) It shall come into force at once.

CHAPTER-I
PRELIMINARY

Definitions.

2. In this Act unless there is anything repugnant in the subject or context –

(a) "Board" means a Board established under section 3;

(b) "Chairman" in relation to a Board, means the Chairman of the Board;

(c) "cinematograph" includes any apparatus for the reproduction of moving pictures or series of pictures;

(d) "film" means cinematographic film or other materials used for projection by cinematograph;

(e) "Government" means the Government of Sindh;

(f) "place" includes a house, building, tent and any means of transport whether by sea, land or air;

(g) "prescribed" means prescribed by rules; and

(h) "rules" means rules made under this Act.

THE SINDH MOTION PICTURES ACT, 2011.

CHAPTER-II
ESTABLISHMENT OF THE BOARD

Constitution of the Board.

3. (1) Government may, by notification in the official Gazette, constitute a Board for the purpose of examining and certifying films for public exhibition.

(2) The Board shall consist of a Chairman and not less than five members to be appointed by Government.

(3) The Chairman and members of the Board shall hold office during the pleasure of Government and receive such salary and allowances, if any, as may be determined by Government.

Uncertified films to be exhibited.

4. (1) No person shall make or arrange a public or private exhibition of a film by means of cinematograph unless the film has been duly certified for public exhibition by the Board; provided that nothing in this sub-section shall be deemed to apply to the exhibition, in the residential premises of any person, of a film which only records events of the life of such person or any member of his family.

(2) Any person desiring to submit any film for certification for public exhibition shall, in the prescribed manner, make an application to the Board for a certificate in respect thereof along with its recording, print or such equivalent material as the Board may determine, including sound tracks of speech, songs, music and effect, and the Board may, after examining the film, or having it examined, in the prescribed manner-

(a) sanction the film for unrestricted public exhibition; or

(b) sanction the film for such restricted public exhibition as may be prescribed; or

(c) direct the applicant to carry out such excisions in the film as the Board considers necessary before sanctioning the film for unrestricted or restricted public exhibition; or

(d) refuse to sanction the film for public exhibition.

(3) Where the Board directs that any portion of the film be excised, the Board shall, subsequent to the rejection of appeal, if any, or the expiration of thirty days from the order, if there is no appeal, destroy or cause to be destroyed all prints of sound and picture and original exposed negatives of the excised portions.

Certification of films.

5. (1) If, after examining a film or having it examined, the Board considers that the film is suitable for unrestricted public exhibition or that, though not suitable for such exhibition, it is suitable for restricted public exhibition, it shall grant to the person applying for certification of the film a certificate of the appropriate category, and shall in all cases cause the film to be marked in the prescribed manner.

(2) An order refusing to grant a certificate, or an order suspending a certificate, or an order decertifying a certified film shall be published in the official Gazette.

(3) Subject to the other provisions of this Act, a certificate granted under this section shall be valid for such area and period as the Board may, by notification in the official Gazette, specify in this behalf.

Principles of guidance in certifying films.

6. (1) A film shall not be certified for public exhibition if, in the opinion of the Board, the film or any part thereof is prejudicial to the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality or amounts to the commission of, or incitement to, an offence.

(2) Subject to the provisions of sub-section (1), for the guidance of the Board in the exercise of its powers under this Act, Government may issue a Censorship Code and such directions as it may think fit.

Appeals.

7. (1) Any person applying for a certificate in respect of a film who is aggrieved by any order of the Board –

(a) refusing to grant a certificate; or

(b) granting only a restricted certificate; or

(c) directing the applicant to carry out any excisions;

may, within thirty days of the date of such order, prefer an appeal to Government and the appeal shall be disposed of in the prescribed manner and the order of Government, shall be final:

Provided that before passing an order under this section, an opportunity shall be provided to the appellant of being heard.

Powers to suspend exhibition of films in certain cases.

8. (1) The Board may, if it has reason to believe that a film in respect of which a certificate has been granted by it under section 5 has been or is being exhibited in contravention of any of the conditions subject to which it has been certified, by order suspend the exhibition of the film for such period as may be specified in the order.

(2) An Officer not below the rank of Grade-19 to be nominated by Government, in respect of the whole or any part of his district, may, if he is of the opinion that any film which is being publicly exhibited is likely to cause a breach of the peace, by order suspend the exhibition of the film for such period not exceeding one month as may be specified in the order.

(3) While an order under sub-section (1) or sub-section (2) is in force in respect of a film, such film shall be deemed to be an uncertified film in respect of the area specified in the order.

(4) For the purpose of inspecting the exhibition of the film and the proper enforcement of the provisions of this Act relating to such exhibition, the Board may, by order in writing, authorize such persons as it may deem fit for such area as may be specified in the order.

(5) Where a film in respect of which no certificate has been granted under this Act is exhibited, or a film certified as suitable for restricted public exhibition is exhibited otherwise than as certified, or a film is exhibited in contravention of any of the provisions of this Act, the Station House Officer of the concerned police station may, upon a report in writing made by the Board or by a person authorized by it in this behalf, or under the orders of An Officer not below the rank of Grade-19 to be nominated by Government, enter any place licensed for the exhibition of film in which there is reason to believe that the film has been or is being exhibited, search it and seize the film and projection equipment.

(6) A copy of an order under sub-section (1) or sub-section (2), together with the statement of the reasons thereof shall forthwith be forwarded to Government and Government may either discharge the order or, by notification in the official gazette, direct that the film shall be deemed to be an uncertified film in respect of such area as may be specified in the notification.

Revisional powers of the Government.

9. (1) Notwithstanding anything contained in this Act, Government may at any stage call for the record of any proceedings in relation to any film which is pending before or has been decided by the Board or **An Officer not below the rank of Grade-19 to be nominated by Government** and, after such inquiry into the matter as it considers necessary, and without notice to the person who has applied for certification of the film or to whom a certificate in respect of the film has been granted or to the distributor or exhibitor of such film, make such order in relation thereto as it thinks fit.

(2) Without prejudice to the powers conferred on it by sub-section (1), Government may, by notification in the official gazette, direct that –

(a) a film or class of films in respect of which a certificate has been granted under this Act or under the Censorship of Films Act, 1963 and the Motion Picture Ordinance,1979 shall be deemed to be an uncertified film or class of films in the whole Province:

Provided that no such order shall be made by Government unless it is satisfied that it is necessary to do so in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or to prevent the commission of, or incitement to, an offence; or

(b) a film which has been sanctioned for unrestricted public exhibition under section 5 or to which a "U" certificate has been granted under the Censorship of Films Act, 1963, shall be deemed to be a film in respect of which a restricted certificate has been granted.

Information and documents to be given to distributors and exhibitors with respect to certified films.

10. Any person who, delivers any certified film to any distributor or exhibitor shall, in such manner as may be prescribed, notify to the distributor or exhibitor, as the case may be, the title and length of the film, the number and nature of the certificate granted in respect thereof and the conditions, if any, subject to which it has been granted and such other particulars as may be prescribed.

Powers to direct exhibition of films for examination.

11. For the purpose of exercising any of the powers conferred on it by this Act, Government or the Board may require any film to be exhibited before it or before any person specified by it in this behalf.

Vacancies etc., not to invalidate proceedings.

12. No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Board.

CHAPTER-III
REGULATION OF EXHIBITION BY MEANS TO CINEMATOGRAPH

Licensing of places for exhibition of films.

13. (1) Save as otherwise provided in this Chapter, no person shall give a public exhibition by means of cinematograph elsewhere than in a place licensed under this Act or otherwise than in compliance with any conditions and restriction imposed by such license.

(2) The authority having power to grant a license under this Act, hereinafter referred to as the licensing authority shall be Government:

Provided that Government may, by notification in the official gazette, specify for the whole or any part of the Province such other authority as it may specify in the notification to be the licensing authority for the purposes of this Chapter.

(3) The licensing authority shall not grant a license under this Chapter in respect of any place unless it is satisfied that -

(a) the rules made under this Chapter have been complied with; and

(b) adequate precautions have been taken in respect of the place for which the license is to be given to provide for the safety and health of persons attending exhibition therein.

(4) Subject to the foregoing provisions of this section, the licensing authority may grant a license under this Chapter to such applicant as it deems fit and on such terms and conditions and subject to such restrictions as it may determine, including the maximum charges for the admission of persons to the exhibition of a film in a place in respect of which such license is granted.

(5) Where the authority specified by Government under the proviso to sub- section (2) to be the licensing authority consists of more persons than one, no decision of the licensing authority shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the said authority.

Directions as to screening of documentaries, etc.

14. Government may, from time to time, issue to any person to whom a license has been granted under this Chapter any directions for the purpose of regulating the exhibition of any film or class of films so that scientific films, films intended for educational or cultural purposes, films dealing with news or current events, documentary films and indigenous films secure an adequate opportunity of being exhibited, and such directions shall be deemed to be additional conditions and restrictions subject to which the license has been granted.

CHAPTER-IV
MISCELLANEOUS

Delegation of powers.

15. Government may, by notification in the official Gazette, delegate all or any of the powers exercisable by it under this Act to such authority or person as may be specified in the notification.

Certain persons to be public servants.

16. The Chairman, members and employees of the Board and persons empowered under sub-section (4) of section 8 shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

Bar to legal proceedings.

17. (1) No suit or other legal proceedings shall lie against Government, the Board, or any officer or member thereof, as the case may be, in respect of anything which is in good faith done or intended to be done under this Act.

(2) No court shall grant an injunction or make any interim order in respect of any order passed under section 8 or section 9.

Penalties and procedure.

18. (1) Whoever-

(a) exhibits or causes or permits to be exhibited in any place, or abets the exhibition of, any film which has not been certified by the Board or which, when exhibited, does not display the prescribed mark or has been altered or tampered with since such mark was affixed thereto; or

(b) without lawful authority, alters or tampers with, in any way, any film after it has been certified; or

(c) fails to comply with the provisions of section 5 or of any order made under this Act;

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lac rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to ten thousand rupees for each day during which the offence continues.

(2) If the owner or person incharge of a cinematograph on any place uses it or allows it to be used in contravention of the provisions of this Act or the rules made there under, or of the conditions and restrictions upon or subject to which any license has been granted under this Act, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one lac rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to ten thousand rupees for each day during which the offence continues.

(3) If any person is convicted of any offence punishable under sub-section (1) of sub-section (2) committed by him in respect of any film, the court may further direct that the film and the cinematograph used for its exhibition may be forfeited to the Board.

(4) Whoever charges for the admission of any person to the exhibition of a film in a place licensed under this Act any amount in excess of the maximum charges fixed under sub-section (4) of section 13, or sells to any person a ticket for such admission at a cost higher than the maximum charges so fixed, shall be punished with the punishment provided for in sub-section (2).

(5) Where the person convicted of an offence under this section is the holder of a license granted under section 13, the licensing authority may revoke the license.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), no court shall take cognizance of an offence punishable under this section except upon a complaint in writing made by the Board or the licensing authority or persons authorized by any of them.

Power to make rules.

19. (1) Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) the manner in which the Board may exercise its powers, including the establishment of centers at different places and the delegation of any of the powers of the Board to any member nominated by Government in that behalf;

(b) the procedure of the Board and all matters ancillary thereto, and the fees to be charged by it;

(c) the conditions subject to which any certificate may be granted under Chapter II and the circumstances in which such certificate shall be refused;

(d) the manner in which appeals under section 7 may be preferred, heard, and disposed of;

(e) the terms, conditions and restrictions, if any, under which licenses may be granted under Chapter III; and

(f) any other matter which is to be or may be prescribed.

Power to exempt.

20. Government may, by order in writing, exempt, subject to such conditions and restrictions, as it may impose, any film or class of films or cinematograph exhibition, or class of cinematograph exhibitions from all or any of the provisions of this Act or the rules made there under.

Repeal and Saving.

21. (1) The provisions of the Motion Pictures Ordinance, 1979, in its application to the Province of Sindh are hereby repealed.

(2) Notwithstanding the repeal of the Motion Pictures Ordinance, 1979, all the orders passed, actions taken, notifications issued and proceedings taken thereunder, shall continue to remain in force until altered, amended or withdrawn by the competent authority.

Repeal.

22. The Sindh Motion Pictures Ordinance, 2011 is hereby repealed.