

CENSORSHIP OF FILMS.

No. 23 of 1971.

AN ACT to amend the Censorship of Films Act,
1947.

[Assented to 1st December, 1971.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Censorship of Films Act Amendment Act, 1971.* Short title and citation.

(2) In this Act the Censorship of Films Act, 1947, is referred to as the principal Act. Reprinted approved for reprint 24th March, 1971.

(3) The principal Act as amended by this Act may be cited as the Censorship of Films Act, 1947-1971.

Commence-
ment.

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

Amendment
to long title.

3. The long title to the principal Act is amended by adding after the word "Commonwealth" the words "and for other matters relating to films".

Amendment
to s. 9.
(When film
not to be
exhibited
unless
approved by
censor.)

4. Paragraph (iii) of subsection (2) of section 9 of the principal Act is amended by substituting for the words "exhibition before children" in lines seven and eight the words "general exhibition".

Amendment
to s. 12.
(Powers of
censor.)

5. Section 12 of the principal Act is amended—

(a) by repealing and re-enacting subsection (1) as follows—

(1) The censor—

(a) may approve a film unconditionally;

(b) may approve a film subject to such conditions as he imposes; or

(c) may refuse to approve a film. ;

(b) by adding a subsection as follows—

(1a) Where the censor approves a film under subsection (1) 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. ; and

(c) by substituting for the passage "The censor shall not approve a film which is, in his opinion" in lines one and two of subsection (2) the passage "Subject to subsection (3) of this section, the censor shall not approve a film which is, in his opinion, formed after having had regard to the manner in

which he would in accordance with subsection (1a) of this section classify the film if it were so approved". .

6. The principal Act is amended by adding after section 12 a section as follows— S. 12A added.

12A. (1) In this section "restricted exhibition picture" means picture from a film classified as being for restricted exhibition, in accordance with subsection (1a) of section twelve of this Act. Attendance of certain children at restricted exhibition pictures.

(2) Where 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 picture theatre, the person exhibiting that picture in the picture theatre is guilty of an offence against this Act in respect of each such person who is so present.

(3) Where a person who has attained the age of fourteen years and who has not attained the age of eighteen years is present at the exhibition of a restricted exhibition picture in a picture theatre, he is guilty of an offence against this Act.

(4) Subject to subsection (6) of this section, where a person who has attained the age of eighteen years causes, permits or allows a person who 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 picture theatre, he is guilty of an offence against this Act.

(5) It is a defence to a complaint for an offence under subsection (2) of this section if the person charged with the offence proves to

the satisfaction of the court before which he is so charged that—

(a) he took all such steps as were reasonable in the circumstances to avoid being guilty of the alleged offence; or

(b) 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 the offence was alleged to have been committed.

(6) A person is not guilty of an offence under subsection (4) 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 is a defence to a complaint for an offence under subsection (4) of this section, if the person charged with the offence proves to the satisfaction of the court before which he is so charged 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 picture theatre in which a restricted exhibition picture—

(a) is being exhibited;

(b) is about to be exhibited; or

(c) has just been exhibited,

and whom he has reasonable cause to suspect has not attained the age of eighteen years—

- (d) the correct age of that person;
- (e) the correct name of that person; and
- (f) the correct address of that person,

and if the member of the Police Force has reasonable grounds to believe that the age, name or address so given is false, he may require that person to produce, within a reasonable time, evidence of the correctness of the age, name or address so given.

(9) A person who refuses or fails without reasonable cause to comply with a demand made by a member of the Police Force under subsection (8) of this section is guilty of an offence against this Act.

7. Section 13 of the principal Act is repealed and re-enacted as follows—

S. 13
repealed and
re-enacted.
(Certificate
of approval.)

13. (1) The approval of a film by the censor under section twelve of this Act and the classification of the film by the censor under subsection (1a) of that section shall be signified by a certificate in the prescribed form.

Certificate
of approval
and classi-
fication of
film.

(2) The refusal of the censor to approve a film under section twelve of this Act shall be signified by a certificate in the prescribed form.

Certificate
of refusal to
approve a
film.

8. Subsection (1) of section 15 of the principal Act is amended—

Amendment
to s. 15.
(Matters to
be contained
in advertise-
ment.)

- (a) by repealing and re-enacting paragraph (b) as follows—

- (b) in the case of a film approved and classified other than for general exhibition in accordance with sub-

section (1a) of section twelve of this Act, contain a statement clearly visible denoting the censor's classification of the film; ; and

- (b) by substituting for the passage "not suitable for exhibition before children, and horror films" in the penultimate and last lines of the second proviso to subsection (1) the passage "not recommended for children, for mature audiences or for restricted exhibition".

Amendment to s. 17.
(Reproduction of certificate of approval to be projected.)

9. The proviso to subsection (2) of section 17 of the principal Act is amended by adding after the word "censor" in line two the passage "and classified by him under subsection (1a) of section twelve of this Act as being".

Amendment to s. 18.
(Certain films not to be exhibited during daytime on Saturdays, public holidays, and school holidays.)

10. Section 18 of the principal Act is amended by substituting for the words "as being not suitable for exhibition before children" in lines three and four and in lines five and six respectively the words "and classified as being not recommended for children or for mature audiences or for restricted exhibition".

Amendment to subs. (8) of s. 22.
(Powers on appeal.)

11. Paragraph (d) of subsection (8) of section 22 of the principal Act is amended by substituting for the word "register" in line one the word "approve".

Amendment to s. 28.
(Evidence.)

12. Subsection (1) of section 28 of the principal Act is amended by substituting for paragraphs (a) and (b) paragraphs as follows—

- (a) approved and classified by him as being suitable for general exhibition;

- (b) approved and classified by him as being not recommended for children;
- (ba) approved and classified by him as being for mature audiences;
- (bb) approved and classified by him as being for restricted exhibition;

13. The principal Act is amended by adding after section 28 a section as follows—

Section 28A added.

28A. (1) In this section “restricted exhibition film” means film classified in accordance with subsection (1a) of section twelve of this Act as being for restricted exhibition.

Right of exhibitor to reject restricted film.

(2) Notwithstanding anything contained in any contract entered into by an exhibitor, whether before or after the commencement of this section, for the supply to him for exhibition of any films, the exhibitor has, subject to the provisions of this section and without incurring any liability for breach of contract, the right to reject any restricted exhibition film proposed to be delivered to him in terms of that contract.

(3) Notice in writing of intention to reject a restricted exhibition film pursuant to this section shall be given by the exhibitor on whom the right to reject is conferred, to the distributor or other supplier of the film—

- (a) not less than twenty-eight days before the proposed date of exhibition thereof, where advice as to the name of the film, and of its classification as being for restricted exhibition has been received by the exhibitor at least six weeks prior to that proposed date;
- (b) in any other case the notice 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 being for restricted exhibition.

(4) Where a contract of the kind referred to in subsection (2) of this section purports to negative or is inconsistent with the right of rejection of a restricted exhibition film 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. .
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