

SAMOA

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1998, No. 32**AN ACT to amend the Film Control Act 1978.***(16 July 1998)***BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:-

1. Short title and commencement-(1) This Act may be cited as the Film Control Amendment Act 1998, and shall be read together with and deemed part of the Film Control Act 1978 (the principal Act).

(2) This Act shall come into force on the date it is assented to by the Head of State.

2. Interpretation-(1) The following definitions shall be inserted into Section 2 of the principal Act -

- (a) "Lender" in relation to any film, means any person who sells any film or lends any film by way of hire or otherwise in the course of business; and "lend", "lent" and "lending" shall have corresponding meanings";
 - (b) "Public exhibition" includes the activities of Exhibitors in relation to films, and the lending of a film";
- (2) Section 2 of the principal Act is amended as follows -
- (a) By deleting the words "otherwise than by means of television, exhibits the" from the definition of "Exhibitor" and replacing them with the words "presents a film by broadcast, cable or satellite television, or who exhibits a"; and
 - (b) By deleting the word "Censor" in the definition of "Censor" wherever they appear, and replacing them with the words "Principal Censor" and such amendment shall be made wherever the word "Censor" appears in the Act (except where it appears as "assistant censor").

3. Film Control Board-(1) Section 4(1) of the principal Act is amended by deleting paragraph (c) and replacing it with the following -

- (c) The Comptroller of Custom, or his nominee;
 - (d) The Secretary of Womens Affairs, or her nominee;
- and
- (e) The Commissioner of Police Service; or his nominee; and
 - (f) Two other persons, one of whom shall be a permanent resident of Savaii, appointed by the Head of State, acting on the advice of Cabinet."

4. Functions of the Board - Section 5(1) of the principal Act is amended by deleting the word "exhibition" and replacing it with the words "public exhibition".

5. Meetings of the Board - Section 8 of the principal Act is amended as follows -

- (a) By deleting the number "2" from subsection (3) and replacing it with number "4"; and
- (b) By deleting the number "3" from subsection (4) and replacing it with the number "5".

6. Amendment of Part III - The heading to Part III of the principal Act shall be amended by adding the words "AND LENDERS".

7. Licences - Section 10 of the principal Act is amended by -

- (a) Deleting the words "Exhibitors licence" from the heading and replacing them with word "Licences"; and
- (b) Deleting from subsection (1), the words "hereinafter referred to as an exhibitors licence", and also the words "at the time and premises specified in such licence"; and
- (c) Adding subsection (1A) as follows:

"(1A) No person shall lend any film unless he is the holder of a licence issued under the provisions of this section"; and

- (d) By deleting the word "\$500" from subsection (2) and replacing it with the words:
 - (a) In the case of an individual - \$2000; and
 - (b) In the case of a company - \$500.
- (e) Adding subsection (2A) as follows:

"(2A) Any person who lends any film in contravention of subsection (1A) or in contravention of any terms and conditions of the licence, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding"; and

- (a) In the case of an individual \$2000; and
- (b) In the case of a company \$5000."

- (f) Adding to subsection (3) the words, "and the Board

may determine classes of licences for exhibitors who are:

- (i) broadcast, cable or satellite television service providers;
 - (ii) picture theatres;
 - (iii) educational institutions;
 - (iv) internet or other computer based suppliers;
- and
- (v) other classes of exhibitors as determined by the Board."

- (g) Deleting from subsections (2), (3), (5) and (7) the words "an exhibitors licence" and replacing them with the words "a Licence under this section"; and
- (h) Deleting from subsection (4) the words:
 - (i) "an exhibitors licence", and replacing them with the words "a licence"; and
 - (ii) "premises" and replacing them with the words "proposals for the exhibition or lending of films".
- (i) Deleting from subsection (5) the words "interest of the safety, health and convenience of persons attending any exhibition held under the authority of such licence" and replacing them with the words "public interest"; and
- (j) Deleting from subsection (6) the words:
 - (i) "exhibitors; and
 - (ii) "shall" and replacing it with the words "may", "where appropriate"; and
 - (iii) "and", and replacing it with the word "or"
- (k) By deleting paragraph (a) of subsection (7).

8. Suspension and revocation of licences - Section 11 of the principal Act is amended by -

- (a) Deleting the words "an exhibitor licence" wherever they appear and replacing them with the words "a licence issued under Section 10"; and
- (b) By adding to subsection (1) after the words "this Act", the words "or any other Act relating to the showing or viewing of indecent films"; and
- (c) By adding to subsection (3) after the words "such

exhibitor", the words "or lender".

9. Duties of Licencees - Section 13 of the principal Act is amended by -

- (a) Deleting the words "an exhibitors licence", and replacing them with the words "a licence"; and
- (b) Adding after the words "such a manner", the words "where appropriate"; and
- (c) Adding the words "and otherwise in compliance with this Act and any conditions of a licence issued under this Act".

10. Films to be approved by Principal Censor - Section 15 of the principal Act is amended by -

- (a) Adding to the heading after the words "be exhibited", the words "or lent"; and
- (b) Adding to subsection (1) after the words "shall exhibit", the words "or lend"; and

11. Powers of Principal Censor - Section 18 of the principal Act is amended by deleting subsection (2) and replacing it with the following:

"(2) The approval by the Principal Censor shall not be given with respect to any film or to any part of a film which in his opinion -

- (a) Describes, depicts, or otherwise deals with-
 - (i) acts of torture, the infliction of serious physical harm, acts of significant cruelty or extreme violence;
 - (ii) sexual violence or sexual coercion, or violence or coercion in association with sexual conduct;
 - (iii) other sexual or physical conduct of a degrading or dehumanising or demeaning nature;
 - (iv) sexual conduct with or by children, or young persons, or both;
 - (v) physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain;

- (b) Exploits the nudity of children, or young persons, or both;
- (c) Degrades or dehumanises or demeans any person;
- (d) Promotes or encourages criminal acts or acts of terrorism;
- (e) Represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified under the Constitution of the Independent State of Samoa; and
- (f) Any matter which is contrary to public order or undesirable in the public interest."

12. Classification of films - Section 19 of the principal Act is amended by inserting subsection (1A) as follows:-

"(1A) In approving films under subsection (1), the censor may determine the titles to be given to classes of film classification; including symbols or abbreviated styles representing those classes."

13. Register of Films - Section 20(1) of the principal Act is amended by adding paragraph (c) as follows -

"(c) Arrange from time to time, as he sees fit, to publish in the Savali lists of approved films and their classifications".

14. Affixing labels - Section 21 of the principal Act is amended by adding subsection (2) as follows:-

"(2) A lender shall affix to each film being lent, a label in a form acceptable to the censor, indicating the classification given to the film under this Act".

15. Revocation of Approvals - Section 22 of the principal Act is amended by -

- (a) Deleting the words "censor, or the"; and

- (b) Deleting the words "to be served on the holder of any certificate of approval issued under this Part of this Act", and replacing them with the words "published in the Savali, or in any other publication that the Board determines to be appropriate"; and
- (c) Deleting the word "such" where it appears after the words "revoke", and replacing it with the word "a".

16. Offences - Section 26(1) of the principal Act is amended by -

- (a) Adding paragraph (aa) as follows -

"(aa) Lends any film in contravention of any obligation in this Part of this Act"; and

- (b) Adding paragraph (bb) as follows -

"(bb) Lends any film in respect of which the Censors certificate of approval has been revoked"; and

- (c) By deleting the words "not exceeding \$500 in respect of each offence" and replacing them with the following:

"for each offence not exceeding;

- (i) in the case of an individual - \$2000
- (ii) in the case of a company - \$5000

17. Power of entry - Section 29 of the principal Act is amended by adding after the words "or is about to be exhibited", the words "or premises where films are lent to the public".

18. Regulations - Section 30 of the principal Act is amended by adding to paragraph (d) after the word "exhibitors", the words "and lenders".

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