

**SAMOA**

## Arrangement of Provisions

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**2010, No. 17****AN ACT to amend the Film Control Act 1978, and for related purposes.** *[16<sup>th</sup> August 2010]*

**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 2010 and shall be read together with and deemed part of the Film Control Act 1978 (hereinafter referred to as the "Principal Act").

(2) This Act commences on the date it is assented to by the Head of State.

**2. Interpretation** - Section 2 of the Principal Act is amended as follows:

- (a) substituting the definition of “Film” with the following:

“includes any cinematograph film, video recording and any other record of visual moving images that is capable of being used for the subsequent display of those images by any means, and includes any part of any film, and any copy or part of a copy of the whole or any part of a film”;  
and

- (b) deleting the definition of “scenario”.

**3. Act to bind the Government** – The Principal Act is amended by inserting after section 3 the following:

“**3A. Act to bind the Government** – This Act binds the Government.”.

**4. Exhibitor’s licence** - Section 10 of the Principal Act is amended by deleting subsections (2) and (2A) and inserting the following:

“(2) A person who exhibits, or causes or permits or suffers to be exhibited, a film in contravention of subsection (1) or in contravention of any of the terms or conditions of a licence issued under this section shall be guilty of an offence and shall be liable on conviction to:

- (a) for a company – a fine not exceeding 100 penalty units;  
(b) for an individual – a fine not exceeding 50 penalty units or a term of imprisonment not exceeding one (1) year, or both.

(2A) A person who lends, or causes or permits or suffers to be loaned, a film in contravention of subsection (1A) or in contravention of any of the terms or conditions of a licence

issued under this section shall be guilty of an offence and shall be liable on conviction to:

- (a) for a company – a fine not exceeding 100 penalty units;
- (b) for an individual – a fine not exceeding 50 penalty units or a term of imprisonment not exceeding one (1) year, or both.”.

**5. Application for approval of film** – The Principal Act is amended by deleting section 16 and inserting the following:

“**16. Application for approval of film** – Subject to section 20(2), an application for the approval of a film by the Principal Censor shall be made in the prescribed form and accompanied by the prescribed fee.”.

**6. Powers of Principal Censor** – The Principal Act is amended by deleting section 18(2) and inserting the following:

“(2) In determining whether to approve a film for exhibition, the Principal Censor shall consider the following matters:

- (a) the extent and degree to which, and the manner in which -
  - (i) the film describes, depicts or otherwise deals with matters including sex, horror, crime, cruelty, violence, offensive language or anti-social behaviour;
  - (ii) the film degrades, demeans or dehumanises a person or group of persons;

- (iii) the film represents members of any particular class of the public as inferior to other members of the public by reason of any characteristic of members of that class on grounds of descent, sex, language, religion, political or other opinion, social origin, race, place of birth, family status, or any of them;
- (b) whether the film is contrary to public order or undesirable in the public interest.”.

**7. Certificates of approval or refusal and register of films** - Section 20 of the Principal Act is amended by deleting subsection (2).

**8. Non-liability of Government** - The Principal Act is amended by deleting section 28 and inserting the following:

“**28. Non-liability of Government** - The Board or any other member, officer, servant or agent of the Board, and the Principal Censor shall not be personally liable for any act done or purported to be done or omitted to be done in good faith in the exercise or the performance of the powers, functions or duties under this Act.”.

**9. Seizure of films** – The Principal Act is amended by inserting after section 29 the following:

“**29A. Seizure of films-(1)** Without limiting section 29, where the Principal Censor or a Police officer discovers any person (hereinafter referred to as “affected person”) offering for public supply, or exhibiting to the public, a film, not being a film that is exempted by section 15, and the Principal Censor or Police officer believes, on reasonable grounds, that the film is supplied or exhibited in contravention of this Act, the Principal Censor or Police officer may seize the film and any case or other container in

or on which that film is kept or offered for public supply (hereinafter referred to as “seized material”) from that affected person.

(2) A Police officer who seizes the seized material under subsection (1) must deliver the seized material to the Principal Censor within 24 hours from the time of seizure.

(3) Upon receipt of the seized material, the Principal Censor shall:

(a) carry out an investigation confirming whether the affected person was offering for public supply, or exhibiting to the public, the film in contravention of the Act; and thereafter

(b) notify the affected person of his or her determination and the steps to be taken to comply with subsections (4), (5) and (6) where applicable.

(4) If the Principal Censor determines that the affected person has acted in contravention of the Act, the Principal shall give the affected person two (2) months from the date of the notice under subsection (3)(b) to comply with the Act in relation to the seized material.

(5) If the affected person complies with the Act in relation to the seized material in accordance with the notice in subsection (3)(b), the Principal Censor may return the seized material to that affected person.

(6) If the affected person does not comply with the Act in relation to the seized material in accordance with the notice in subsection (3)(b), the Principal Censor may dispose of the seized material.”.

**10. Liability of officers of companies** - The Principal Act is amended as follows:

(a) inserting after section 30 the following:

**“30A. Liability of officers of companies** - Where a company is convicted of an offence against this Act, a director and an officer concerned with the management of that company shall be guilty of the offence, where it is

proved that the act or omission that constituted the offence took place with that person's knowledge, authority, permission or consent."; and

(b) deleting section 31(3).

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**The Film Control Amendment Act 2010 is administered  
by the Ministry of Justice and Courts Administration.**

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