

Jammu And Kashmir Cinematograph Act, 1989

24 of 1989

CONTENTS

1. Short Title, Extent And Commencement
2. Definitions
3. Cinematograph Exhibitions To Be Licensed
4. Licensing Authority
5. Restrictions On Powers Of Licensing Authority
6. Punishment For Use Of A Cinematograph In Contravention Of This Act And Rules Made Thereunder
 - 6A. Board Of Film Censors
 - 6B. Appeals
 - 6C. Power Of The Government To Modify Orders Under Sections 6-A Or 6-B
 - 6D. Information And Documents To Be Given To Distributors And Exhibitors With Respect To Certified Films
 - 6E. Penalty
 - 6F. Power To Revoke Licence
7. Power To Make Rules
8. Power To Exempt

Jammu And Kashmir Cinematograph Act, 1989

24 of 1989

An Act to make provision for regulating public exhibitions by means of Cinematographs within State of Jammu and Kashmir. Whereas it is expedient to make provisions for regulating public exhibition by means of cinematograph: It is hereby enacted as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Jammu and Kashmir Cinematograph Act, 1989, and shall apply to the whole of the Jammu and Kashmir State.

(2) The Government may, by notification in the Jammu and Kashmir Government Gazette, direct that the whole or any of its provisions shall apply to any local area within the State.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,--

"adult" means a person who has completed his eighteenth year;

"Board" means the Board of Film Censor constituted by the Jammu and Kashmir Government under Section 6-A;

"cinematograph" includes any apparatus for the representation of moving pictures or series of pictures;

"place" includes also a house, building, tent or vessel; and

"prescribed" means prescribed by rules made under this Act.

3. Cinematograph Exhibitions To Be Licensed :-

Save as otherwise provided in this Act, no person shall give a public exhibition by means of a cinematograph elsewhere than in a place licensed under this Act, or otherwise than in compliance with any conditions and restrictions imposed by such licence.

4. Licensing Authority :-

The authority having power to grant licences under this Act (hereinafter referred to as the "licensing authority") shall be the District Magistrate:

Provided that the Government may, by notification in the Jammu and Kashmir Government Gazette, constitute for the whole or any part of the State such other authority as may be specified in the notification to be the licensing authority for the purpose of this Act

5. Restrictions On Powers Of Licensing Authority :-

(1) The licensing authority shall not grant a licence under this Act unless it is satisfied that--

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

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

(2) A condition shall be inserted in every licence that the licensee will not exhibit or permit to be exhibited in such place any film other than a film which has been certified as suitable for unrestricted public exhibition or public exhibition restricted to adults by the Board of Censors constituted by Government and which, when exhibited, displays the prescribed mark of that Board and has not been altered or tampered within any way since such

mark was affixed thereto; or that no film prohibited by the Government shall be imported or shown.

(3) A further condition shall be inserted in every licence that the licensee will not exhibit or permit to be exhibited in public any advertising matter consisting of or containing any pictorial representation which has not been certified as suitable for publication by the Board of Censors constituted by the Government, or distribute or publish or cause to be distributed or published any such matter.

(4) Subject to the foregoing provisions of this section and to the control of the Government the licensing authority may grant licences under this Act to such persons as it thinks fit and on such terms and conditions and subject to such restrictions as it may determine:

Provided always that, the Government may prohibit the grant of a licence to prevent any common injury, danger or annoyance to the public or to the people in general, who dwell or occupy property in the vicinity of the place in respect of which the licence is to be given.

(5) Any person aggrieved by the decision of a licensing authority refusing to grant a licence under this Act may, within such time as may be prescribed, appeal to the Government or to such officer as the Government may specify in this behalf, and the Government or the officer, as the case may be, may make such order as it or he thinks fit.

(6) The Government may, from time to time, issue directions to licensees generally or to any licensee in particular for the purpose of regulating the exhibition of any films, or class of films, so that scientific films, films intended for educational purposes, film dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited, and where any such directions have been issued, those directions shall be deemed to be additional conditions and restrictions subject to which the licence has been granted.

6. Punishment For Use Of A Cinematograph In Contravention Of This Act And Rules Made Thereunder :-

If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the occupier of any place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder or of the conditions and restrictions

upon or subject to which any licence has been granted under this Act, he shall, on conviction by a Magistrate of the first class, be punishable with fine which may extend to one thousand rupees and in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

6A. Board Of Film Censors :-

(1) The Government may, by notification in the Government Gazette, constitute a Board of Film Censor consisting of such number of persons as may be fixed by the Government (at least two of whom shall be non-official members from each province) for the purposes of examining and certifying films as suitable for unrestricted public exhibition or for public exhibition restricted to adults only and for examining pictorial representations intended for use as advertising matter and of certifying the same as suitable for publication.

(2) If the Board, after examination finds that a film is suitable for unrestricted public exhibitions, or that although not suitable for such exhibition, it is suitable for public exhibition restricted to adults, it shall grant to the person applying for a certificate in respect of the film a "U" certificate in the former case and an "A" certificate in the latter case, and shall in either case the film to be so marked in the prescribed manner. If after the examination the Board finds that a pictorial representation is suitable for publication, it shall grant a certificate to that effect to the person applying for the same and shall cause the pictorial representation to be marked in the prescribed manner. The certificate in respect of the film or pictorial representation so granted by the Board shall, save as hereinafter provided, be valid throughout the Jammu and Kashmir State.

(3) If the Board is of opinion that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults or that a pictorial representation is not suitable for publication, it shall inform the person applying for the certificate of its decision.

6B. Appeals :-

(1) Any person applying for a certificate, who is aggrieved by the decision of the Board,--

(a) refusing to grant a certificate, or

(b) granting only an "A" certificate,

may, within thirty days from the date of such decision, appeal to the Government, and the Government may, after such inquiry into the matter as considers necessary, pass such orders thereon as it thinks fit.

(2) If the Government rejects an appeal on the ground that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults or that a pictorial representation is not suitable for publication, it shall, by notification in the Government Gazette, direct that the films or pictorial representation shall be deemed to be an uncertified film or pictorial representation in the whole of the State.

(3) For the purpose of disposing of any appeal under this section the Government may demand the exhibition of any film or pictorial representation before any authority specified in this behalf and call for the report of such authority thereon.

(4) Nothing in this section shall prevent the Government from calling at any time for the record of any proceeding of the Board relating to the refusal to grant or the grant of any certificate and in which no appeal has been preferred and make such order in the case as the Government deem fit.

6C. Power Of The Government To Modify Orders Under Sections 6-A Or 6-B :-

Notwithstanding anything contained in this Act, the Government may, of its own motion by notification in the Government Gazette, direct that,--

(a) a certified film or pictorial representation shall be deemed to be an uncertified film or pictorial representation in the whole or any part of the Jammu and Kashmir State, or

(b) a film in respect of which a "U" certificate has been granted, shall be deemed to be a film in respect of which an "A" certificate has been granted,

(c) the exhibition of any film be suspended for such period as may be specified in the direction:

Provided that no direction issued under clause (c) shall remain in force for more than two months from the date of the notification.

6D. Information And Documents To Be Given To Distributors And Exhibitors With Respect To Certified Films :-

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, the length of the film, the number and the nature of the certificate granted in respect thereof and the conditions, if any, subject to which it has been so granted, and any other particulars respecting the film which may be prescribed.

6E. Penalty :-

(1) If any person--

(a) exhibits or permits to be exhibited in any place--

(i) any film other than a film which has been certified by the Board as suitable for unrestricted public exhibition or for public exhibition restricted to adults and which, when exhibited, displays the prescribed mark of the Board and has not been altered or tampered with in anyway since such marks was affixed thereto;

(ii) any film, which has been certified by the Board as suitable for public exhibition restricted to adults, to any person who is not an adult; or

(b) without lawful authority (the burden of proving which shall be on him), alters or tampers with, in any way, any film after it has been certified; or

(c) fails to comply with the provisions contained in Section 6-D or with any order made by the Government or by the Board in the exercise of any of the powers or functions conferred on it by this Act or the rules made thereunder;

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

(2) If any person is convicted of an offence punishable under this section committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to the Government.

(3) The exhibition of a film, in respect of which an "A" certificate has been granted, to children below the age of three years accompanying their parents or guardians shall not be deemed to an offence within the meaning of this section.

6F. Power To Revoke Licence :-

Where the holder of a licence has been convicted of an offence under Section 6 or

6-E, the licence may be revoked by the licensing authority.

7. Power To Make Rules :-

(1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, rules under this section may provide for--

(a) the regulation of cinematograph exhibitions for securing the public safety:

(aa) the terms, conditions and restrictions, if any, subject to which licences may be granted under this Act;

(aaa) the time within which and the conditions subject to which an appeal under sub-section (5) of Section 5 may be preferred;

(b) the procedure of the authority constituted for examining and certifying films as suitable for public exhibition and all matters ancillary thereto and the fees to be levied by that authority;

(c) any other matter which by this Act is to be prescribed.

(3) All rules made under this Act shall be published in the Jammu and Kashmir Government Gazette and on such publication shall have effect as if enacted in this Act.

8. Power To Exempt :-

The Government may, by order, exempt subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder.