

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE



No. 24 of 1988

**An Act to amend the Censorship of Films Act 1947-1984
and the Films Review Act 1974-1984 each in certain
particulars**

[ASSENTED TO 11TH APRIL, 1988]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Films (Censorship and Review) Acts Amendment Act 1988*.

2. Commencement. (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a day appointed by Proclamation.

3. Arrangement. This Act is arranged in Parts as follows:—

PART I—PRELIMINARY (ss. 1-3);

PART II—AMENDMENT OF CENSORSHIP OF FILMS ACT (ss. 4-13);

PART III—AMENDMENT OF FILMS REVIEW ACT (ss. 14-21).

PART II—AMENDMENT OF CENSORSHIP OF FILMS ACT

4. Principal Act and citation as amended. (1) In this Part the *Censorship of Films Act 1947-1984* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Censorship of Films Act 1947-1988*.

5. Amendment of s. 4. Meaning of terms. Section 4 of the Principal Act is amended by—

(a) inserting after the definition “Censorship Board” the following definition:—

“ “Chief Censor” has the same meaning as in the A.C.T. Ordinance;”;

(b) inserting after the definition “Commonwealth Gazette” the following definition:—

“ “Crown” means the Crown in right of Queensland;”;

(c) in the definition “distribute”, omitting all words from and including the words “(a) offer” to and including the words “on sale;” and substituting the following words:—

“(a) barter, exchange or let on hire;

(b) offer or expose for sale, barter or exchange or to let on hire;

(c) receive for sale, barter or exchange or to let on hire;

(d) have in possession for sale, barter or exchange or to let on hire;

and

- (e) send, forward or deliver for or on sale, barter or exchange or to let on hire;”.

6. Amendment of s. 19. Notice of decision. Section 19 of the Principal Act is amended by—

(a) in subsection (1)—

- (i) omitting the words “cause a notice of the decision”;
- (ii) in paragraph (d), omitting the words “to be given in writing” and substituting the words “cause a notice of the decision signed by him to be given”;
- (iii) in paragraph (e), inserting before the words “to be published” the words “cause a notice of the decision”;

(b) in subsection (2), omitting the words “given to the applicant in accordance with that subsection” and substituting the words “signed by the Censor for the purpose of paragraph (d) of that subsection”.

7. Amendment of s. 21. Revocation of approval. Section 21 of the Principal Act is amended by, in subsection (3)—

(a) omitting the words “given to the applicant” and substituting the words “published in the Commonwealth Gazette or, as the case may be, the Gazette”;

(b) omitting the words “been given” and substituting the words “been published”.

8. Amendment of s. 39. Power to require name, etc. Section 39 of the Principal Act is amended by, in subsection (1)—

(a) inserting the word “or” between paragraph (a) and paragraph (b);

(b) in paragraph (b), inserting before the word “admitted” the words “who is”.

9. Amendment of s. 42. Seizure and submission of films for classification. Section 42 of the Principal Act is amended by omitting subsection (4).

10. Amendment of s. 46. Forfeiture. Section 46 of the Principal Act is amended by—

(a) in subsection (1), inserting the word “or” between paragraph (a) and paragraph (b);

(b) in subsection (2), omitting the words “this section” and substituting the words “subsection (1)”;

(c) adding at the end thereof the following subsections:—

“(3) A film seized pursuant to this Act and refused classification under the A.C.T. Ordinance (whether before or after such seizure)

is forfeited to the Crown and when no longer required in connexion with proceedings for an offence against this Act or any appeal arising therefrom, or if no such proceedings are commenced, shall, subject to subsection (4), be destroyed.

(4) If the Minister is satisfied that a film to which subsection (3) applies was, at the time at which it was seized, in the possession of a person referred to in paragraph (a) or (b) of subsection (3) of section 41 for the purpose mentioned in that subsection he may direct that it be returned to that person and such a direction shall be complied with.”.

11. Repeal of and new s. 47. Savings. The Principal Act is amended by repealing section 47 and substituting the following section:—

“**47. Savings and transitional.** (1) A film which at the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1984* was approved and classified as being for general exhibition, not recommended for children, for mature audiences or for restricted exhibition pursuant to this Act as in force at a time prior to that commencement shall be deemed to have been approved and classified respectively, on that commencement as a “G” film, a “PG” film, an “M” film or an “R” film pursuant to section 16 of this Act.

(2) A film which at the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1988* is classified as a “G” film, a “PG” film, an “M” film or an “R” film pursuant to the A.C.T. Ordinance shall, subject to subsection (5)—

- (a) where the film was so classified at the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1984*—be deemed to have been approved and classified respectively as a “G” film, a “PG” film, an “M” film or an “R” film under section 16 of this Act and such approval and classification shall be deemed to have become effective on that second mentioned commencement;
and
- (b) where the film was so classified subsequent to the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1984* and at the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1988*—be deemed to have been approved and classified respectively as a “G” film, a “PG” film, an “M” film or an “R” film under section 16 of this Act and such approval and classification shall be deemed to have become effective on the date on which the classification of the film pursuant to the A.C.T. Ordinance became effective.

(3) Where, at the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1984*—

- (a) a film was classified pursuant to the A.C.T. Ordinance otherwise than as a “G” film, a “PG” film, an “M” film or an “R” film the film shall be deemed to have been refused approval under paragraph (a) of section 16 (3) of this Act;
- (b) a film had been refused classification pursuant to subsection (3) of section 25 of the A.C.T. Ordinance or paragraph (a) or (b) of subsection (4) of that section the film shall be deemed to have been refused approval respectively under paragraph (a), (b) or (c) of section 16 (3) of this Act,

and such refusal of approval shall be deemed to have become effective on that commencement.

(4) Where a film has, subsequent to the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1984* and at the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1988*—

- (a) been classified pursuant to the A.C.T. Ordinance otherwise than as a “G” film, a “PG” film, an “M” film or an “R” film the film shall, subject to subsection (5), be deemed to have been refused approval under paragraph (a) of section 16 (3) of this Act and such refusal shall be deemed to have become effective on the day on which the classification of the film pursuant to the A.C.T. Ordinance became effective;

or

- (b) been refused classification pursuant to subsection (3) of section 25 of the A.C.T. Ordinance or paragraph (a) or (b) of subsection (4) of that section the film shall, subject to subsection (5) of this section, be deemed to have been refused approval respectively under paragraph (a), (b) or (c) of section 16 (3) of this Act and such refusal shall be deemed to have become effective on the day on which the refusal to classify the film pursuant to the A.C.T. Ordinance became effective.

(5) Where at the commencement of Part II of the *Films (Censorship and Review) Acts Amendment Act 1988* a film has been classified or refused classification pursuant to the A.C.T. Ordinance and upon an application to review, whether made before or after that commencement—

- (a) a film is given a classification different from that previously given to it;
 - (b) the film is given a classification;
- or
- (c) the film is refused classification,

subsection (2) (b) or (4) (whichever is appropriate) shall apply

according to its tenor as if the film had been given that different classification or, as the case may be, that classification or had been refused classification at that commencement.”.

12. Amendment of s. 50. Evidentiary provisions. Section 50 of the Principal Act is amended by—

(a) omitting subsections (1) and (2) and substituting the following subsections:—

“(1) In any proceedings for an offence against this Act—

(a) a certificate, signed or purporting to be signed by the Censor, in respect of the approval, non-approval, classification, or revocation of the approval, of a film under this Act, or the approval or non-approval of an advertisement under this Act or the refusal to approve a film or advertisement under this Act or the signing, giving or publishing of a notice under this Act;

or

(b) a certificate, signed or purporting to be signed by the Chief Censor, in respect of the classification, non-classification, or revocation of the classification, of a film under the A.C.T. Ordinance or the refusal to classify a film under that Ordinance or the giving or publishing of a notice under that Ordinance,

shall upon its production be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

(2) Where the certificate referred to in paragraph (a) of subsection (1) purports to have been issued by a person holding the appointment Chief Censor in the service of the Commonwealth it shall be presumed without proof that such person is an officer and authority of the Commonwealth charged with the function of censorship of films on behalf of the Commonwealth to whom section 37 applies.”;

(b) omitting subsection (4) and substituting the following subsection:—

“(4) In any proceedings for an offence against this Act—

(a) it shall not be necessary to prove the authority of the complainant to institute the proceedings;

(b) proof that a film that has not been approved or that has been refused approval was distributed in or from a place at a certain time on a certain date shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the distribution in or from that place on that date of all other films that

have not been approved or that have been refused approval and that are located in or on that place within the period of 24 hours next occurring after that time;

- (c) the averment in a complaint of the making of an arrangement under Part IV is evidence and, in the absence of evidence to the contrary, conclusive evidence that the arrangement was duly made and was in operation at the time of the alleged offence.”.

13. Repeal of Schedule. The Schedule to the Principal Act is repealed.

PART III—AMENDMENT OF FILMS REVIEW ACT

14. Principal Act and citation as amended. (1) In this Part the *Films Review Act 1974-1984* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Films Review Act 1974-1988*.

15. Amendment of s. 4. Interpretation. Section 4 of the Principal Act is amended by, in the definition “distribute”, omitting all words from and including the words “(a) offer” to and including the words “on sale;” and substituting the following words:—

- “(a) barter, exchange or let on hire;
 (b) offer or expose for sale, barter or exchange or to let on hire;
 (c) receive for sale, barter or exchange or to let on hire;
 (d) have in possession for sale, barter or exchange or to let on hire;
 and
 (e) send, forward or deliver for or on sale, barter or exchange or to let on hire;”.

16. Amendment of s. 9. Power of Board to prohibit distribution of objectionable films. Section 9 of the Principal Act is amended by, in subsection (1), inserting after the words “any film to” the words “deliver a copy of the film to the secretary or”.

17. Amendment of s. 10. Matters for Board’s consideration in determining whether a film is objectionable. Section 10 of the Principal Act is amended by—

- (a) in subparagraph (iv) of paragraph (a), omitting the words “opinion.” and substituting the words “opinion;”;
 (b) in paragraph (c), omitting the word “subparagraph” and substituting the word “paragraph”;
 (c) inserting the word “and” between paragraph (d) and paragraph (e).

18. **New s. 10A.** The Principal Act is amended by inserting the following section after section 10:—

“10A. Board may retain film when film determined to be objectionable. (1) Any film delivered to the secretary pursuant to an order under section 9 (1) and determined by the Board to be an objectionable film may be retained by the Board.

(2) The Board may destroy or otherwise dispose of a film retained by it under subsection (1).”

19. **Amendment of s. 14B. Seizure and submission of films for approval.** Section 14B of the Principal Act is amended by omitting subsection (4).

20. **Amendment of s. 15. Forfeiture of objectionable films.** Section 15 of the Principal Act is amended by—

(a) in the note appearing in and at the beginning of the section, omitting the word “**objectionable**” and substituting the word “**certain**”;

(b) in subsection (1), inserting after the words “of a film” the words “(other than a film to which subsection (2A) applies)”;

(c) in subsection (2), omitting the words “this section” and substituting the words “subsection (1)”;

(d) inserting after subsection (2) the following subsections:—

“(2A) A film seized under this Act and refused approval under the *Censorship of Films Act 1947-1988* (whether before or after such seizure) is forfeited to the Crown and when no longer required in connexion with proceedings for an offence against this Act or any appeal arising therefrom, or if no such proceedings are commenced, shall, subject to subsection (2B), be destroyed.

(2B) If the Minister is satisfied that a film to which subsection (2A) applies was, at the time at which it was seized, in the possession of a person referred to in paragraph (a) or (b) of section 14C for the purpose mentioned in that section he may direct that it be returned to that person and such a direction shall be complied with.”

21. **Amendment of s. 19. Evidentiary provisions.** Section 19 of the Principal Act is amended by—

(a) in subsection (1)—

(i) in paragraph (c), omitting all words from and including the words “evidence and” to and including the words “relates;” and substituting the words “upon its production admissible as evidence and, in the absence of evidence to the contrary, is conclusive evidence of the matters to which it relates.”;

(ii) omitting paragraph (d);

(b) omitting subsection (6) and substituting the following subsections:—

“(6) In any proceedings for an offence against this Act—

(a) it shall not be necessary to prove the authority of the complainant to institute the proceedings;

(b) proof that a film was distributed in or from a place at a certain time on a certain date, being a film in respect of which a subsisting order under section 9 (3) applies, shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the distribution in or from that place on that date of all other films in respect of which such an order applies that are located in or on that place within the period of 24 hours next occurring after that time.

(7) In any proceedings for an offence against paragraph (a) or (b) of section 14A (1) of this Act subsections (1) and (2) and paragraph (c) of subsection (4) of section 50 of the *Censorship of Films Act 1947-1988* shall apply to and in respect of those proceedings as if they were proceedings for an offence against that second mentioned Act.”.