

Development and Classification of Film Bill

MEMORANDUM

The purpose of this Bill is to consolidate with amendments the Cinematograph Act 1961 (Act 76) to provide the machinery to deal with the production, distribution, exhibition and marketing of films.

The Act now in force is Act 76 which was enacted over 40 years ago at a time when technology and exhibition of films were not too widespread. With the improvement in technology of film production and exhibition through computer and internet, it has become necessary to enact a law to cater for our social lives and upbringing if we aspire to achieve a much more disciplined social life and cohesion in society.

This Act, (Act 76), has been found to be grossly inadequate in controlling the spate of indecent, pornographic, violent, morally and culturally unacceptable films being exhibited on our screens, in public cinema theatres or even on television.

This has generated negative public reaction. Indeed, the Ministry of Information is inundated with correspondence and calls and the mass media are also full of letters and articles berating the Ministry and Government for their inability to control the public exhibition of such unacceptable films.

It is a well known fact that our society is vulnerable to many social vices some of which have resulted in the AIDS pandemic which all civilized societies seek to regulate and educate people on.

The need to prevent objectionable material in films was the rationale for establishing the Film Censorship Board in the 1960s. Due to inadequacies of the existing legislation, the Cinematograph Exhibition Board of Control has not been able to efficiently and effectively carry out its duties.

The Bill therefore responds to public outcry, requests and demands to ensure that our screens are decent and acceptable in consonance with the Government's desire to ensure public decency, discipline and to protect the youth from such unacceptable films at their impressionable ages. Thus, the Bill is intended to provide a legislative machinery to deal with the development, production, distribution, marketing and exhibition of films.

The Bill has been divided into three Parts.

Part—1 relates to the establishment of a National Film Board. The objects of the Board among others are to promote the prestige and good name of the Republic through preview and classification of films; to promote the respect of the dignity of the human person and to discourage the promotion through films of practices which dehumanize or are injurious to the physical and mental well being of a person or which are offensively vulgar or depict excessive cruelty (clauses 1 & 2).

Clause 3 deals with the functions of the Board to preview and pass films for exhibition; license premises intended for exhibition of films, license libraries and shops which hire out films after the Classification Committee has submitted its reports on applicants; whilst clause 4 spells out the membership of the Board which consists of specified persons from departments and organizations, two of whom are nominated by the President.

Part II—relates to Registration and Licensing of premises.

Clauses 11 and 12 deal with general prohibition of film exhibitors without licence and the prohibition to operate film rental library and the sale of films without a licence. The Bill enjoins applicants to apply for a licence to exhibit films and sets up conditions to be met before a licence is issued by the Board. A licence issued should be conspicuously displayed at the licensed premises for the exhibition and such licence is not transferable. Where this condition is breached, the licence issued shall be cancelled by the Board. (clause 14-15).

Clauses 16 and 17 respectively cover the registration with the Copyright Administrator, for an applicant cannot commence business unless the person produces the identification number allotted to the person under the Tax Payers Identification Numbering System, 2002 (Act 632) and produces evidence to that effect.

Under clauses 18 and 19, the transfer of a licence is prohibited and the Board may revoke or suspend a licence if the Board is satisfied that the holder of the licence has contravened or failed to comply with any conditions of the licence or the holder has been convicted of an offence under this Act.

By clause 20, notice of operating a theatre under a licence should be conspicuously displayed on the premises.

Under Clause 21, the Classification Committee classifies films either as “U”, universal, suitable for all category of persons; “PG”- to be watched under parental guidance; “12”-suitable for persons of 12 years and over; “15”- suitable for persons of 15 years and over; and “18”- suitable for persons of 18 years and over which by the Constitution of Ghana are adults; “R” means that a film as a whole is not suitable for exhibition.

Pornographic films are proscribed under this Act (Clause 22).

Under clause 23 the Classification Committee has the sole responsibility to approve a poster intended for advertisement of a film before it is displayed after a reasonable period of 21 working days and the hours for exhibition of film shall be determined by the Board in consultation with the Classification Committee.

The Board shall in consultation with the Classification Committee determine how and when distribution and marketing of films are to be done (Clause 26).

Films which arouse negative emotions are not allowed to be shown on any premises (Clause 27).

The Board may on an application allow into the country educational films upon payment of prescribed fees (Clause 28); and authorized officers may enter any premises at any time where it is believed the provisions of this Act are not being complied with or the officer has reason to believe that an exhibition is about to be held there without a licence (Clause 29).

Offences are provided for in the Bill and the minimum sanction does not exceed a term of 2 years or a fine of 500 penalty units or both. (Clause 30).

Where a person exhibits a film which has not been passed and classified by the Board or exhibits a pornographic film, the Board shall without prejudice to any criminal proceedings that may be instituted against the exhibitor, seize the film and equipment used for the exhibition and apply to the court for forfeiture to the Republic (clause 31).

Part III—relates to the administrative, financial and miscellaneous provisions.

Clause 32 establishes a Film Finance Fund, to encourage support for full-length feature films which are the central focus of the Fund; encourage support for financial aid to promote the release of feature films in terms of publicity materials or radio and television adverts, (clause 33).

Eligibility criteria, financial commitment, guidelines or criteria for application and sources for the Film Finance Fund are respectively provided for in clauses 34,35,36 and 37.

The management of the Film Finance Fund shall be by the Board in consultation with the select Committee of script experts (Clause 38).

The President shall on the advice of the Board given in consultation with the Public Services Commission appoint an Executive Secretary who shall be responsible for the day to day administration of the Fund. (Clause 39)

Under clause 44, the Minister is empowered to make Regulations for carrying into effect the provisions of this Act and in particular Regulations regarding safety precautions in licensed premises or theatres conditions under which motion picture and other related audio visual materials used in connection with films shall be stored.

An interpretation clause is provided in clause 45 and the repeal and saving is in (clause 46). Notwithstanding the repeal of the Cinematograph Act 1961 (Act 76) any Regulations made and any licence or certificate issued under the repealed Act and in force immediately before the commencement of this Act shall continue in force as if made or issued under the corresponding provisions of this Act, until revoked, suspended, cancelled or otherwise dealt with under this Act.

HON. NANA AKOMEA (MP)
Minister for Information

Date: *25th September, 2003.*

Development and Classification of Film Bill

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A
BILL
ENTITLED

DEVELOPMENT AND CLASSIFICATION OF FILM ACT, 2003

AN ACT to consolidate with amendments the Cinematograph Act 1961 (Act 76) to provide a legislative machinery to deal with the production, distribution, exhibition and marketing of films and to provide for related matters.

BE IT ENACTED by Parliament as follows:

**PART I—ESTABLISHMENT AND FUNCTIONS OF THE
NATIONAL FILM BOARD**

Establishment of National Film Board

1. There is established by this Act a National Film Development and Classification Board referred to in this Act as the “Board”.

Objects of the Board

2. The objects of the Board are:

- (a) to evolve a dynamic, economically self-sustaining and culturally-conscious film industry in the country; to promote the use of film for national integration, cohesion and mobilization and for the projection of the country’s image and identity abroad and for development;
- (b) to promote respect of the dignity of the human being;
- (c) to discourage the promotion through films of any practices, which dehumanize or are injurious to the physical or mental well-being of a person or which are offensively vulgar or depict excessive cruelty;
- (d) to discourage the exhibition of films that expose a child to physical or moral hazards;
- (e) to oversee or regulate that films do not offend the religious feelings of any sector of the community or arouse ethnic or racial misunderstanding or hostility;
- (f) to provide or encourage the requisite conducive environment for business enterprises and communities to be the driving force and main player in the production, distribution exhibition and marketing, of films;
- (g) to facilitate and establish a network to co-ordinate the distribution and marketing of locally produced films throughout Ghana and Africa in general and the world at large;
- (h) to support film training institutions to train competent persons to enhance film making in the country;

- (i) to make film a vehicle or tool for public education and entertainment
- (j) to use film to foster national unity and portray the image of Ghana;
- (k) to encourage the production and exportation of film in all forms;
- (l) to regulate the importation, distribution and marketing of foreign films that do not show sensitivity to our cultural values; and
- (m) to enjoin foreign film producers to seek clearance and authorization from the National Film Board before shooting films in Ghana—and lodge a copy of the film with the Board)

Functions of the Board

3. The Board shall

- (a) advise the Minister on all matters affecting the film industry;
- (b) represent the country in its relations with other countries in respect of commercial film production;
- (c) assist in developing and administering a code of ethics for the film industry;
- (d) conduct or commission research as necessary on films, and the Film Industry in Ghana.
- (e) set standards for training and accreditation of practitioners in the film industry;
- (f) administer or oversee the Film Finance Fund in consultation with the select Committee;
- (g) assist in the establishment and maintenance of a national film archives;
- (h) act as an arbiter in all disputes relating to the production, distribution, exhibition and marketing of films;
- (i) ensure the maintenance of maximum technical standards for all productions;
- (j) promote the distribution, exhibition and marketing abroad of local films;
- (k) ensure, in conjunction with the Copyright Administrator, compliance with the laws regulating copyright and disbursement of royalties;
- (l) establish a committee to pass and classify films for exhibition before the films are distributed, exhibited or marketed;
- (m) register and license premises intended for the exhibition of films;
- (n) register and license libraries and shops which sell or hire out films;
- (o) determine registration and licensing fees to be paid after consultation with the Ministry of Finance or the Internal Revenue Service;

- (p) exploit the potential of film as an awareness building medium to encourage the creation of a common identity for people of African descent, throughout the world, that is to say
- (i) encourage that, scripts and productions reflect the dignity and pride of black people and promote the positive aspects of their culture,
 - (ii) inculcate into the Ghanaian and the African the development spirit of heroes and heroines that can serve as role models for people in all areas of human endeavour,
 - (iii) encourage the extensive use of local and African languages, customs, music, dance and other national symbols in film production,
 - (iv) encourage the making of films that take cognizance of our positive cultural practices and traditions,
 - (v) encourage training institutions to link up with the Second Cycle and Tertiary institutions in film education to ensure a culture of film lovers; and
 - (vi) encourage the training of film critics.

Composition of the Board

4. (1) The Board shall comprise of the following members:

- (a) a chairperson (who shall be an expert in film making)
- (b) one representative each of the following, nominated by the respective body or institution:
 - (i) the Sector Ministry;
 - (ii) National Commission on Culture;
 - (iii) Ghana Academy of Film and Television Arts (GAFTA);
 - (iv) Information Services Department;
 - (v) National Film and Television Institute;
 - (vi) Film Producers Association;
 - (vii) Film Distributors Association;
 - (viii) Film Actors Guild;
 - (ix) Film Exhibitors Association;
 - (x) Ghana Television (GTV)
 - (xi) Copyright Office;
 - (xii) Attorney General's Office;
 - (xiii) Nominee of the President;
 - (xiv) A representative of Private Television Stations; and
 - (xv) A Financial Expert

(2) The chairperson and the other members shall be appointed by the President in consultation with the Council of State.

Qualifications of members of the Board

5. (1) A person shall not qualify to be a member of the Board unless that person

- (a) is a citizen of Ghana of not less than eighteen years old;
- (b) is able to read, speak and write the English language with proficiency to enable the person take active part in the deliberations at the meetings of the Board and other related functions;
- (c) has not been convicted for an offence on indictment; and
- (d) is of sound mind.

Tenure of office of members of the Board

6. (1) A member of the Board shall hold office for a term of four years and is at the end of the term eligible for reappointment, except that a member shall not be appointed for more than two consecutive terms.

(2) A member of the Board may at any time by a letter addressed to the President through the Minister resign from office.

(3) Where the office of a member of the Board becomes vacant before the expiration of the term of office, the chairperson shall inform the Minister who shall notify the President of the vacancy and the President acting on the advice of the nominating authority where applicable and in consultation with the Council of State shall appoint another person to hold office for the unexpired portion of the term of office.

(4) The chairperson or any other member of the Board may be removed from office by the President for inability to perform the functions of the office, for stated misbehaviour or any other just cause; in consultation with the Council of State and the respective body notified for replacement and approval.

(5) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member.

Meetings of Board

7. (1) The Board shall meet for the transaction of business at the times and places that the Board determines but shall meet at least once every month.

(2) The chairperson shall preside at each meeting of the Board and in the absence of the chairperson, a person elected by the members present from among their number shall preside.

(3) The chairperson shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board at the place and time the chairperson determines.

(4) A decision of the Board shall be by the majority of the members present and voting and in the event of equality of votes, the chairperson or the person presiding shall have a casting vote.

(5) The quorum for a meeting of the Board shall be two-thirds of the members.

(6) The Board may co-opt a person to attend a Board meeting but a co-opted person is not entitled to vote on any matter for decision by the Board.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to the provisions of this section, the Board shall regulate the procedure for its meetings.

Disclosure of interest

8. (1) A member of the Board who has an interest in a contract or other transaction to be entered into with the Board or any application before the Board shall disclose in writing to the Board the nature of the interest and shall be disqualified from participating in the deliberations of the Board in respect of the contract, application or other transaction.

(2) A member who infringes subsection (1) is liable to be removed from the Board.

Film Classification Committee

9. (1) Without prejudice to section 1 of this Act, there is established a film Classification Committee of the National Film Board which shall consist of the following:.

- (a) The Sector Ministry (Chairman/President);
- (b) Information Services Department;
- (c) Ghana Academy of Film and TV Arts (GAFTA);
- (d) Copyright Office;
- (e) National Commission on Culture;
- (f) Attorney-General's Office;
- (g) Ministry of Women and Children's Affairs;
- (h) A representative of Labour unions;
- (i) Department of Social Welfare;
- (j) Ghana National Association of Teachers (GNAT);
- (k) Ghana Police Service;
- (l) National Catholic Secretariat;
- (m) Christian Council of Ghana;
- (n) Ghana Pentecostal Council;
- (o) Federation of Muslim Council;
- (p) Ahmadiya Mission;
- (q) Traditional Religion;
- (r) Chieftaincy Secretariat;
- (s) Film Actors Guild;
- (t) Ghana Prisons Service; and
- (u) Five private individuals (All Ghanaians)

(2) The Film Classification Committee may comprise of members of the Board or non-members or both and shall perform such functions as the Board may assign to them.

Allowances for members

10. A member of the Classification Committee shall be paid such allowances as may be determined by the Board with the approval of the Minister for Finance.

PART II—REGISTRATION AND LICENSING OF PREMISES

Prohibition to hold film exhibition without licence

11. A person shall not exhibit or allow to be exhibited on any premises a film to which persons are admitted on the payment of a fee or any other consideration, unless that person has registered and holds a licence for that purpose issued in respect of the premises by the Board in consultation with a select committee.

Prohibition to operate film rental library and sales outlet without licence

12. A person shall not display for hiring or hire out or sell or distribute any film unless that person holds a licence issued by the Board for that purpose.

Application for licence

13. (1) A person who intends to obtain a licence under this Act, shall submit an application for a licence in a form prescribed by Regulations to the Board through the Information Services Department in the District where the applicant intends to operate on the payment of a prescribed fee.

(2) Where the application relates to a licence for a film library, the applicant shall submit with the application a list of the films held by the applicant and the Select Committee may appoint an officer to verify the list within 14 working days after the submission of the application through the Information Services Department to the Board.

(3) The Board or Select Committee may invite an applicant to provide additional information where it considers necessary.

Inspection of premises for the purpose of a licence

14. (1) The Select or Sub Committee shall within 6 weeks after it has received an application which relates to a licence of premises for the exhibition of films, appoint an inspection team to inspect the premises.

(2) The inspection team shall comprise of representatives of each of the following agencies in the district where the premises is situated:

- (a) the Police Service;
- (b) the Ministry of Health;
- (c) the Ghana National Fire Service;
- (d) the Electricity Company of Ghana;
- (e) the Information Services Department; (chairperson)

- (f) the Town and Country Planning Department; and
- (g) the District Assembly.

(3) The inspection team shall inspect any premises in respect of which an application for exhibition is made under this Act and shall satisfy itself as to the adequacy on the premises of

- (a) ventilation;
- (b) fire protection;
- (c) sanitary facilities
- (d) entrances and exits; and
- (e) other facilities relating to health and safety.

(4) A person who provides any service to the public shall put in place the necessary facilities and equipment that will make the service available and accessible to a person with disability.

(5) The inspection team shall within 14 working days after it has been appointed submit its report including its recommendations in writing to the Select Committee or Sub Committee.

Issue of licence

15. (1) The Board shall

- (a) upon being satisfied that conditions for the issue of a licence under this Act, Regulations and bye-laws in respect of safety of premises have been complied with, issue a licence to the applicant
- (b) in the case of an application which relates to a licence for the exhibition of films, within 7 working days after it has received the inspection report, where approval is recommended in the report;
- (c) in the case of an application for a licence to operate a film library within 14 working days after the application has been received; and
- (d) in the case where there is verification of the list of films submitted by the applicant within 28 working days after the application has been submitted.

(2) A licence issued under subsection (1) is valid for a period of 12 months subject to renewal and may be subject to conditions that the Board determines.

(3) The issue and renewal of a licence shall attract fees that the Board determines.

(4) Where the Board, for any reason, does not approve the grant of a licence, the Board shall inform the applicant of that decision within 30 working days of receipt of the application and a failure by the Board to inform the applicant of its decision on an application shall be construed to be a grant of a licence to the applicant.

(5) An applicant dissatisfied with the decision of the Board under subsection (4) may petition the Minister for a review of the decision.

(6) Where an applicant is dissatisfied with the decision of the Minister in respect of a petition for a review under subsection (5), the applicant may apply to the High Court for a judicial review of the Minister's decision.

Registration with Copyright Administrator

16. (1) An applicant who is issued a licence under this Act shall for the purposes of payment of royalties on films and music register with the Copyright Administrator.

(2) All film producers shall register with the Copyright Office.

Tax liability

17. (1) The Internal Revenue Service within the area of operation of an applicant shall determine the tax liability of the applicant.

(2) An applicant shall not be permitted to commence business unless that applicant quotes the identification number allocated to the person under the Tax Payers Identification Numbering System Act, 2002 (Act 632) and submits it to the Board before a licence is issued to the person.

Transfer of licence

18. (1) A licence issued under this Act shall not be transferred without the prior written consent of the Board.

Revocation or suspension of licence

19. The Board may revoke or suspend a licence issued under this Act, if

- (a) the Board is satisfied that the holder of the licence has contravened or failed to comply with any of the conditions of the licence
- (b) the holder of the licence has been convicted of an offence under this Act; or
- (c) the Board is satisfied that it is in the public interest to do so.

Notice of operating under a licence

20. (1) A theatre licensed under this Act shall have displayed in a conspicuous place on the premises and in legible and bold writing a notice to that effect.

(2) A notice under subsection (1) shall state the hours of operation and the fees chargeable for entry.

(3) A person who operates in a licensed theatre shall advertise the film and the rating with the appropriate warning.

(4) Publicity materials shall be displayed in front of the theatre or premises.

Classification of a film

21. (1) The Classification Committee shall pre-view and classify any feature film, documentary and adverts that are intended for exhibition.

(2) All free-on-air television stations shall submit their films to the Classification Committee 2 weeks in advance for a pre-view.

(3) A person who desires to exhibit a film shall, at least within 30 working days before the intended exhibition submit the film to the Classification Committee for examination and classification.

(4) The Classification Committee upon receipt of a film under subsection (2), shall within 14 working days preview the film and determine whether it is suitable for exhibition or not.

(5) Where the Classification Committee determines that a film is suitable for exhibition the Classification Committee shall classify it as follows:

- (a) U — Universal for all category of persons;
- (b) PG — to be watched under Parental Guidance;
- (c) 12 — for persons of 12 years and over;
- (d) 15 — for persons of 15 years and over;
- (e) 18 — for persons of eighteen years and over; and
who by the Constitution of Ghana are adults.

(6) Where the Classification Committee in a preview, determines that parts of a film are not suitable for exhibition it may direct the person who submitted the film to excise those parts of the film it considers unsuitable for exhibition and pass the rest of the film and classify the film in accordance with subsection (5).

(7) Where the Classification Committee determines that a film as a whole is not suitable for exhibition it shall refuse to pass the film for exhibition and classify it as “R” meaning rejected

(8) The Classification Committee upon the preview and classification of a film shall fix to the film as part of the film an identification mark recording the decision of the Classification Committee as provided in subsections (5),(6) and (7) and shall issue a certificate of classification to the person who submitted the film.

(9) The Classification Committee shall inform the person who submitted the film for preview and classification, of the Board’s decision and issue the certificate of classification, as provided for under subsection (8), to that person within 21 working days after the submission of the film.

Pornographic films

22. The Board shall not approve for public exhibition a film that the Board considers to be pornographic.

Posters and advertisement of film exhibition

23. (1) The Classification Committee shall approve a poster intended to be used for the advertisement of a film exhibition before the poster is displayed.

(2) A person who intends to display a poster for the purpose of advertising a film exhibition shall submit the poster at the same time that the film to which it relates is submitted to the Classification Committee for preview and classification.

(3) The Classification Committee shall within 21 working days after it has received a poster approve or refuse to approve the poster and inform the person who submitted the poster accordingly.

(4) A person shall not display a poster that has not been approved by the Classification Committee for the purpose of advertising a film exhibition and where a poster has been approved by the Classification Committee, a person shall not display that poster, unless that poster has clearly and boldly printed or embossed on it the classification mark determined by the Classification Committee for the film to which the poster relates.

(5) A poster intended for the advertisement of a film exhibition shall only be displayed at places prescribed by the Classification Committee.

Exhibition of films

24. (1) The hours within which a film exhibition governed by this Act may be held, shall be prescribed by the Board in consultation with the Classification Committee.

(2) A person shall not exhibit or allow to be exhibited a film that has not been passed and classified by the Board in consultation with the Classification Committee.

(3) At a film exhibition, the exhibitor shall show a filmlet depicting the certificate of classification granted by the Board, before showing the main credit title of the film.

(4) An exhibitor shall only sell tickets of the appropriate government revenue authority.

Attendance at film exhibitions

25. (1) A person shall not attend a film exhibition which that person is not qualified to attend by virtue of the classification of the film under section 21(4)

(2) A person who exhibits a film under a licence issued under this Act shall not permit another person who is disqualified by virtue of the classification of film under section 21(4) to enter or remain on the premises where the exhibition is taking place.

(3) Where the exhibitor of a film is of the opinion that a person who wishes to enter or remain on the premises or theatre for the exhibition is disqualified by virtue of the classification under section 21(4) the

exhibitor shall refund any entrance fee paid by that person and send that person away from the premises or theatre.

Distribution and marketing

26. (1) A person shall not distribute or market any film unless that person obtains a licence issued by the Board to that effect in consultation with the Classification Committee.

(2) The distribution and marketing of films are reserved for Ghanaians.

(3) Notwithstanding subsection (2) a company in which majority shares are owned and controlled by non- Ghanaians may be permitted to distribute and market films.

(4) The Board may establish a network to co-ordinate the distribution and marketing of locally produced films throughout the country, Africa and the world at large.

Negative emotional films

27. (1) A person shall not use or cause to allow to be used for a film exhibition on any premises any film that arouses negative emotions.

(2) For the purpose of this section whether a film is a negative emotional film shall be determined by the court.

Education films

28. The Board may on the written application of any person who desires to

(a) import a film; or

(b) export a film produced in Ghana,

which is claimed to be an educational film certify the film as such if satisfied with the status of the film and request the applicant to pay the prescribed fee.

Power of entry

29. (1) An authorized officer of the Board may enter any premises whether or not licensed under this Act at any time,

(a) to ascertain whether the provisions of this Act have been or are being complied with; or

(b) if the officer has reason to believe that an exhibition is being or is about to be held there without a licence.

(2) An authorized officer shall, if so required, produce to the occupier of the premises or theatre his or her personal identification card and cause the offender's arrest.

Offences and penalties

30. A person who

(a) exhibits any film on unlicensed premises or theatre contrary to section 11;

(b) hires out a film contrary to section 12;

(c) obstructs any person lawfully authorized under sections 14, 19 or 29 from entering and inspecting the premises or theatre;

(d) fails to display on the licensed premises or theatre the notice required contrary to section 20;

(e) being a distributor or exhibitor fails to submit any film to the Board for preview and classification contrary to section 21,

(f) exhibits a film during the hours prohibited by the Board;

(g) admits any person on licensed premises or theatre declared by this Act, regulations or bye-laws to be ineligible for admission; or

(h) does any act contrary to any other provision of this Act, commits an offence and is liable on summary conviction to a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 2 years or both and in the case of a continuing offence to a further fine of 50 penalty units for each day that the prohibited act continues.

Forfeiture of equipment

31. Where a person

(a) exhibits a film which has not been passed and classified by the Board for exhibition, or

(b) exhibits any pornographic film,

the Board shall without prejudice to any criminal proceedings that may be instituted against the exhibitor, seize the film and the equipment used for the exhibition and apply to the court for forfeiture of both the film and the equipment to the State.

PART III—ADMINISTRATION, FINANCIAL AND MISCELLANEOUS PROVISIONS

Film Finance Fund

32. (i) There is established by this Act a Fund to be known as the “Film Finance Fund”.

(ii)

Objects of the Fund

33. The objectives of the Fund are

(a) to encourage support for full-length feature films which are the central focus of the Fund;

(b) to encourage the proportion of support given to short and medium-length feature films to creative documentaries and animated films;

(c) to encourage support for televised productions (Television films, fictions and animated serials, sitcoms, animated Television films) particularly those aimed at a young audience;

- (d) to encourage support for cinema theatre development in all the Regional and District capitals in the Republic;
- (e) to encourage support for financial aid to promote the release of feature films in terms of publicity materials and on radio and television adverts.

Eligibility

34. A person to benefit from the Film Finance Fund shall

- (a) be a Ghanaian Film production company based in the Republic with a VAT registration number;
- (b) be a Ghanaian television production company based in the Republic with a VAT registration number;
- (c) be a businessman or entrepreneur developing a cinema theatre in the Republic with a VAT registration number; and
- (d) be a film-maker, producer, distributor, exhibitor and marketer or TV practitioner **in the Republic** with a VAT registration number

Financial commitment

35. The Board in consultation with the Chairman of the Select Committee shall approve up to 40% or 60% (or less of both) of total Budget Estimate to support those who are eligible for application for the Film Finance Fund.

Guidelines or for application

36. (1) Comprehensive guidelines and criteria for application shall be written by a special committee formed by the Board for that purpose.

(2) The Board shall approve the guidelines or criteria for application after consultation with a cross-section of all stake holders.

Sources of money for the Fund

37. The monies for the Fund shall consist of

- (a) government grants;
- (b) grants, loans and other forms of technical assistance from foreign governments and international funding agencies;
- (c) donations from business enterprises;
- (d) donations and other forms of assistance from Non-Governmental cultural organizations, both local and foreign;
- (e) contributions from individual film production houses;
- (f) a percentage of the entertainment tax charged on film exhibition as the Minister for Finance may determine;
- (g) a percentage of duty and taxes charged on cinematographic products as the Minister for Finance may determine;
- (h) a percentage of the revenue from the National Lotteries as the Minister of Finance may determine;
- (i) interest on loans and other charges on services rendered by the Fund; and

- (j) organisation of special events and other fund-raising activities.

Management of Film Finance Fund

38. The Film Finance Fund shall be managed by the Board in consultation with a Select Committee of Script Experts.

Management and activities of the Board

39. (1) There shall be appointed by the President on the advice of the Board given in consultation with the Public Services Commission an Executive Secretary for the Board who shall subject to the directions of the Board and be responsible for the day to day administration of the Fund.

(2) The Executive Secretary shall be the Secretary to the Fund.

(3) The Executive Secretary shall hold office on terms and conditions specified in the letter of appointment.

Internal auditor

40. (1) There shall be appointed for the Board an internal auditor who shall be responsible to the Board in the performance of his function as the internal auditor.

(2) The internal auditor shall at the end of every three months, prepare and submit through the Director of Administration to the Board an audit report for the three months' period immediately preceding the preparation of the report.

(3) The internal auditor's work shall be guided by the Financial Orders and rules and guidelines provided by the Auditor-General.

(4) The chairman of the Board shall submit a copy of the report to the Minister.

Appointment of staff

41. (1) The President acting in accordance with the advice of the Board given in consultation with the Public Services Commission, shall appoint the internal auditor and other employees necessary for the effective performance of the functions of the Board.

(2) The President may delegate the power of appointment of officers under subsection (1) in accordance with article 195(2) of the Constitution.

(3) Other public officers may be transferred or seconded to the Board, at the request of the Board.

Estimates of income and expenditure

42. The Board shall submit to the Minister at such times and in such form as the Minister for Finance may direct, detailed estimates of the Board's income and expenditure for the next financial year.

Accounts and audit

43. (1) The Board shall keep books of account and proper records in relation to the financial affairs and transactions of the Board.

(2) The books of account of the Board shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.

Regulations

44. (1) The Minister may, by legislative instrument, make Regulations for carrying into effect the provisions of this Act.

(2) Without prejudice to sub-section (1) regulations may provide for:

(a) the safety precautions to be observed in licensed premises or theatre;

(b) conditions under which motion pictures and other related audio visual materials used in connection with films shall be stored; and

(c) the obligation of persons in relation to storage of films; motion pictures and other related audio visual materials.

Interpretation

45. In this Act, unless the context otherwise requires

“adult” means a person of 18 years and above;

“authorized officer” means a person authorised by the Board in accordance with this Act or regulations to exercise functions under this Act;

“Board” means the National Film Board established under section 1;

“cinematograph” means fixation in a physical medium of images synchronised with or without sound, including videograms;

“film” means a recording on any medium from which a motion picture may be produced and including audio visual products.

“film library” means a place where films are kept for hire, sale; archival and preservation purposes.

“Minister” means the Sector Minister responsible for Information or any Ministry under which the Board operates at any given time;

“the premises” includes theatre, cinema house, video center, building, land, caravan, tent, or other structure to which persons are admitted for an exhibition;

“occupier” includes the person managing or receiving rent from the premises concerned; and

“Republic” means the Republic of Ghana

Repeal and saving

46. The following enactments are repealed

(1) Cinematograph Act 1961, (Act 76); and

(2) Cinematograph (Amendment Decree 1975 (NRCD 350).

(3) Notwithstanding the repeal under subsections (1), and (2) any Regulations made and any licence or certificate issued under the repealed Act and in force immediately before the commencement of this Act, shall continue to be in force as if made or issued under the corresponding provisions of this Act, until revoked, suspended, cancelled or otherwise dealt with under this Act.

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