

CHAPTER 299

FILMS 1993-16

This Act came into operation on 14th October, 1993.

Amended by:

This Act has not been amended

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1995

CHAPTER 299

**FILMS
1993-16**

Arrangement of Sections

1. Short title

PART I

PRELIMINARY

2. Definitions

PART II

**ESTABLISHMENT, POWERS AND DUTIES OF THE FILM CENSORSHIP
BOARD**

3. Film Censorship Board
4. Powers of the Board
5. Inspection
6. Search warrant
7. Restrictions on issue of search warrant
8. Classification of films
9. Approval of distribution and exhibition of films

10. Charges payable for examination of films
11. Right of Board to exclude unauthorised persons
12. Reconsideration of film by Board
13. Advertising
14. Film exchange licence
15. Suspension, cancellation or refusal to renew film exchange licence
16. Offences
17. Evidence

PART III

VIDEO RECORDING

18. Interpretation
19. Exempted work
20. Exempted supplies
21. Designated authority
22. Classification certificates
23. Labelling
24. Supplying unclassified video work
25. Possession of unclassified video work for the purposes of supply

- 26. Supplying video work in breach of the classification certificate
- 27. Non-compliance with requirements as to labelling etc.
- 28. False indication as to classification

PART IV

MISCELLANEOUS

- 29. Offence by members of bodies corporate
- 30. Entry, search and seizure
- 31. Obstructing the Board
- 32. Arrest
- 33. Evidence by certificate
- 34. Forfeiture
- 35. Appeal
- 36. Expenses
- 37. Regulations

SCHEDULE

The Constitution and Procedure of the Film Censorship Board

**BARBADOS****FILMS
1993-16**

An Act to provide for the regulating, distributing and censorship of films and for matters related thereto.

[Commencement: 14th October, 1993]

Short title

1. This Act may be cited as the *Films Act*.

**PART I
PRELIMINARY****Definitions**

2. In this Act,
“Board” means the Film Censorship Board established by section 3;
“business” includes any activity carried on by a club except in section 20 (3);

“exhibit” when used in respect of film or moving pictures, means to show film for viewing for direct or indirect gain or for viewing by the public; and “exhibition” has a corresponding meaning;

“film” includes cinematographic film, videotape and any other medium from which may be produced visual images that may be viewed as moving pictures;

“film exchange” means the business of distributing film;

“premises” includes any vehicle, vessel or stall;

“standard film” means cinematographic film of 35 millimetres or more in width;

“supply” means supply in any manner, whether or not for reward and includes supply by way of sale, letting or hire, exchange or loan, and references to a supply are to be construed accordingly;

“video recording” includes any disc or magnetic tape containing information by the use of which the whole or a part of a video work may be produced;

“video work” includes any series of visual images, with or without sound,

- (a) produced electronically by the use of information contained on any disc or magnetic tape; and
- (b) shown as a moving picture.

PART II

ESTABLISHMENT, POWERS AND DUTIES OF THE FILM CENSORSHIP BOARD

Film Censorship Board

3.(1) There is established a Board to be known as the Film Censorship Board.

(2) The *Schedule* has effect with respect to the constitution of the Board and otherwise in relation thereto.

Powers of the Board

4. The Board shall, subject to this Act and the regulations,
- (a) approve, prohibit or regulate the exhibition and distribution of film;
 - (b) authorise the removal from any film submitted to the Board for approval, any portion that the Board does not approve for exhibition or distribution;
 - (c) approve, prohibit or regulate advertising in connection with any film or the exhibition or distribution of any film;
 - (d) classify films in accordance with section 8;
 - (e) inspect premises pursuant to section 5;
 - (f) carry out any other duties imposed under this Act or the regulations.

Inspection

- 5.(1) The Board
- (a) may inspect, at reasonable times, cinemas and other premises where films are exhibited and business premises occupied by film exchanges to ensure that the provisions of this Act and the regulations are complied with;
 - (b) may, in the performance of its duties, enter any cinema or other premises in which films are exhibited or in which there is a film exchange;
 - (c) may, together with any member of the Police Force, in this Act referred to as a “police officer” at all times enter premises on which the Board has reason to believe any film is being or is about to be exhibited, with a view to seeing or ascertaining whether this Act or the regulations are being contravened.

- (2) The Board may delegate any of its functions under subsection (1) to any employee of the Board.
- (3) Where the Board has reason to believe that a film or advertisement was exhibited, used or offered for distribution contrary to this Act or the regulations, the Board may, in writing, direct that the film or advertisement, as the case may be, be delivered to the Board.
- (4) Where a direction given by the Board under subsection (3) is not complied with in the time specified in the direction, the Board may, in writing, direct that the subject matter of the order not be removed from the premises, destroyed or altered in any manner for a period of 10 days except under the authority of the Board.
- (5) Notwithstanding subsection (1), the Board shall not
- (a) enter any place actually being used as a dwelling without the consent of the occupier, or
 - (b) use force in the exercise of its power of entry and inspection.
- (6) Any person who prevents or obstructs the entry of a member of the Board or police officer or obstructs or causes or incites other persons to obstruct such member or police officer in the execution of his duty under this Act is liable on summary conviction to a fine of \$1 000 or to imprisonment for 6 months or to both.

Search warrant

- 6.(1)** Subject to section 30, where a police officer has reasonable grounds for suspecting that it is necessary to enter a particular building or premises for the administration of this Act or the regulations, the police officer may
- (a) lay before a magistrate an information on oath setting out those grounds; and
 - (b) apply for the issue of a warrant to search the building or premises for any film or advertisement that the police officer reasonably believes

was exhibited, used or offered for distribution contrary to the Act or regulations.

(2) Where an application is made under subsection (1) for a search warrant, the magistrate may issue a warrant under his hand authorising a police officer with such assistance and by such force as is necessary and reasonable

- (a) to enter the building or premises;
- (b) to search the building or premises for film or advertisement; and
- (c) to seize the film or advertisement found in the course of the search which the police officer reasonably believes to be exhibited, used or offered for distribution contrary to the Act or the regulations.

(3) Where a search warrant issued under this section is executed it shall be returned to the magistrate within 72 hours after execution.

Restrictions on issue of search warrant

7. A magistrate shall not issue a warrant under section 6 unless

- (a) the informant or some other person has given to the magistrate either on oath or by affidavit any further information that the magistrate may require concerning the grounds on which the issue of the warrant is sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

Classification of films

8.(1) Films may be classified by the Board in accordance with the following categories

- (a) General Audience, that is the Board considers the film to be suitable for viewing by persons of any age;
- (b) Parental Guidance, that is the Board considers that every parent should exercise discretion in permitting a child to view the film;

- (c) Parental Guidance 13, that is the Board considers that the viewing of the film should be restricted to persons 13 years of age or older and that parental discretion is advised;
 - (d) Restricted, that is the Board considers that viewing of the film should be restricted to persons 18 years and older because it contains strong language, nudity, sexual situations or violence; or
 - (e) Adult only, that is the Board considers that viewing of the film should be restricted to persons 18 years of age and older because it contains graphic violence, strong sexual situations or full frontal nudity.
- (2) In determining the classification of a film under subsection (1), the Board may take into consideration the classification of the manufacturer or distributor.
- (3) In determining whether video work should be classified under subsection (1), the Board shall have regard to
- (a) the likelihood of video work being viewed in the home; and
 - (b) whether or not the video work is being distributed.

Approval of distribution and exhibition of films

- 9.(1)** Before a film for cinema is exhibited or distributed, an application for approval to exhibit or distribute and for classification of the film shall be made to the Board in the prescribed manner.
- (2) Where an application is made under subsection (1), the Board shall sit for the purpose of examining the film submitted, and, in accordance with the criteria stipulated in the Act or regulations, may refuse to approve the film for exhibition or distribution.
- (3) Within 7 days of its decision to refuse to approve a film the Board shall communicate to the applicant its reasons for such refusal.

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- (4) Notwithstanding paragraph 5 of the *Schedule*, for the purpose of exercising its power under paragraph (a) of subsection 4 (1), 2 members of the Board constitute a quorum.
- (5) Where the Board has refused to approve a film submitted by an applicant under subsection (1), the applicant, on payment of the prescribed fee, may appeal the decision of the Board by submitting the film for reconsideration by a panel of the Board, and the Board shall make a decision.
- (6) The panel referred to in subsection (5) shall comprise at least 5 members, none of whom had participated in a previous decision on the film.
- (7) An applicant who has appealed under subsection (5) may appeal the decision of the Board under that subsection to a Judge in Chambers whose decision is final.
- (8) Every appeal under this section shall be made in such manner and subject to such conditions and to the payment of such fees as are prescribed by regulations.
- (9) Where the Board refuses to approve a film for exhibition under this section and the film has not been exhibited in Barbados except for the purposes of this Act, but has been exported from Barbados, the Minister responsible for Finance may refund any customs duties or part thereof paid on the importation of the film.
- (10) A statement by the Comptroller of Customs that a certificate of rejection by the Board has been produced to him and that the film or part of the film has been exported, shall be produced to the Minister responsible for Finance before the refund referred to in subsection (9) is made.

Charges payable for examination of films

- 10.** Every person who submits a film to the Board for approval to exhibit or distribute shall pay to the Accountant-General in respect of the examination such charges as may be prescribed by regulations.

Right of Board to exclude unauthorised persons

11. The Board may, at the time of its examination of any film under section 9 (2), prohibit from being present any person who in its opinion is not directly concerned with the exhibition of the film.

Reconsideration of film by Board

12.(1) Where the Board considers that

- (a) any matter has been added to a film after it has been approved by the Board; or
- (b) the criteria set out in this Act or prescribed by regulations respecting the subject matter or content in films have changed since the film was originally approved and classified and as a result, the film may not be entitled to the approval or classification determined at the time of the original decision,

the Board may require that the film be submitted for reconsideration by the Board and if required, shall be deemed not to have been approved until it has been again approved.

(2) Where the film is submitted for reconsideration under subsection (1), section 9 applies with the necessary modifications except that no fees shall be charged.

Advertising

13.(1) No person shall publicly display any advertising matter in connection with a film or the exhibition or distribution of a film unless a sample of the advertising matter is submitted to the Board for approval in duplicate, and is accompanied by the prescribed fee.

(2) Where a sample of advertising matter referred to in subsection (1) is approved by the Board, it shall be so stamped and one sample shall be returned to the person who submitted it.

(3) The Board, in accordance with the criteria prescribed by regulations, may refuse to approve advertising matter submitted under subsection (1).

Film exchange licence

14.(1) No person shall carry on the business of a film exchange without applying for and, being granted on payment of the prescribed fee, a licence from the Board to do so.

(2) The Board may, after a hearing, refuse to issue a film exchange licence to an applicant,

- (a) if a film exchange licence was previously issued to the applicant under this Act and the licence is suspended or was cancelled and the grounds for the suspension or cancellation continue to exist;
- (b) where the application is for a standard film exchange licence, if the building in which the film exchange is located,
 - (i) is not of fire resistive construction in that portion of the building in which film is handled or stored,
 - (ii) is occupied in whole or in part as a dwelling,
 - (iii) is occupied in whole or in part by another business of the film exchange, or
 - (iv) otherwise does not comply with this Act and the regulations.

(3) Subject to this Act, the holder of a film exchange licence is entitled to a renewal of the licence upon application and on payment of the prescribed fee.

(4) The holder of a film exchange licence is entitled to transfer the licence with the written consent of the Board where the transferee would have been entitled to the issue of a new film exchange licence on application.

Suspension, cancellation or refusal to renew film exchange licence

15. The Board may, after a hearing, refuse to renew, suspend or cancel a film exchange licence if

- (a) the licensee has contravened any of the provisions of this Act or the regulations; or
- (b) the issue of a licence would be refused under section 14 (2) (b) if the licensee were an applicant for such a licence.

Offences

16. Any person who

- (a) knowingly furnishes false information in any application under this Part or in any statement or return required to be furnished under this Part or the regulations;
- (b) knowingly fails to comply with any order, direction or other requirement made under this Part; or
- (c) contravenes any provision of this Part or the regulations,

is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of one year or to both.

Evidence

17. A statement as to

- (a) the classification of any film;
- (b) the approval or non-approval of any film; or
- (c) the approval or non-approval of any advertising matter

certified by the Chairman of the Board is, without proof of the office of the Chairman, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

PART III
VIDEO RECORDING

Interpretation

18.(1) For the purposes of this Act, a video recording contains a video work if it contains information by the use of which the whole or a part of the work may be produced; but where a video work includes any extract from another video work, that extract is not to be regarded for the purposes of this subsection as a part of that other work.

(2) Where any alteration including an alteration by addition is made to a video work in respect of which a classification certificate has been issued, the classification certificate is not to be treated for the purposes of this Act as issued in respect of the altered work.

Exempted work

19.(1) Subject to subsection (2), the provisions of this Act shall not apply to a video work that, if taken as a whole

- (a) is designed to inform, educate or instruct;
- (b) is concerned with sport, religion or music; or
- (c) is a video game.

(2) Notwithstanding subsection (1), a video work is not exempted under that subsection if it depicts

- (a) human or animal sexual activities or acts or force or restraint associated with such activities;
- (b) mutilation or torture of, or other acts of violence towards humans or animals;
- (c) human genital organs or human urinary or excretory functions,

or is designed to any significant extent to stimulate or encourage anything falling within paragraph (a) or, in the case of anything falling within paragraph (b), is designed to any extent to do so.

Exempted supplies

20.(1) A supply of a video recording by any person is an exempted supply for the purposes of this Act if it is not

- (a) a supply for reward; or
- (b) a supply in the course or furtherance of a business.

(2) Where on any premises facilities are provided in the course or furtherance of a business for supplying video recordings, the supply by any person of a video recording on those premises is to be treated for the purposes of subsection (1) as a supply in the course or furtherance of a business.

(3) Where a person, in this subsection referred to as the “original supplier” supplies a video recording to a person who, in the course of a business, makes video works or supplies video recordings, the supply is an exempted supply

- (a) if it is not made with a view to any further supply of that recording, or
- (b) if it is so made, but is not made with a view to the eventual supply of that recording to the public or is made with a view to the eventual supply of that recording to the original supplier.

(4) For the purposes of subsection (3), any supply is a supply to the public unless it is

- (a) a supply to a person who, in the course of a business, makes video works or supplies video recordings;
- (b) an exempted supply by virtue of subsection (1) or subsections (5) to (10); or
- (c) a supply outside Barbados.

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- (5) Where a video work
- (a) is designed to provide a record of an event or occasion for those who took part in the event or occasion or are connected with those who did so;
 - (b) does not, to any significant extent depict anything falling within paragraphs (a) to (c) of section 16 (2); and
 - (c) is not designed to any significant extent to stimulate or encourage anything falling within paragraph (a) of section 19 (2), or in the case of anything falling within paragraph (b) of that section, is not designed to any extent to do so,

the supply of a video recording containing only that work to a person who took part in the event or occasion or is connected with someone who did so is an exempted supply.

(6) The supply of a video recording for the purpose only of the exhibition of any video work contained in the recording in premises other than a dwelling house in respect of which a licence is in force is an exempted supply.

- (7) The supply of a video recording with a view only to
- (a) its use in productions provided by
 - (i) the Government Information Service,
 - (ii) the National Cultural Foundation,
 - (iii) the Audio Visual Aids Department of the Ministry of Education,
 - (iv) the Caribbean Broadcasting Corporation or any other Government Agency dealing with film production; or
 - (b) the production of video works concerned with sport, religion or music,

is an exempted supply.

(8) The supply of a video recording for the purpose only of submitting a video work contained in the recording for the issue of a classification certificate or

otherwise for the purpose of arrangements made by the Board is an exempted supply.

- (9) The supply of a video recording with a view only to its use
- (a) in training for or carrying on any medical or related occupation;
 - (b) for the purpose of services provided under the *Health Services Act*, Cap. 44, the *Mental Health Act*, Cap. 45 or any other enactments relating to health and personal services

is an exempted supply.

(10) For the purposes of subsection (9), an occupation is a medical or related occupation if, to carry on the occupation, a person is required to be registered under the *Profession, Trade and Business Registration Act*, Cap. 373.

(11) The supply of a video recording otherwise than for reward, being a supply made for the purpose only of supplying it to a person who previously made an exempted supply of the recording, is also an exempted supply.

Designated authority

- 21.(1)** For the purposes of this Act, the Board shall
- (a) determine the suitability of video works
 - (i) for the issue of classification certificates, or
 - (ii) in respect of which such certificates have been issued,to be viewed in the home;
 - (b) in the case of video works that are determined in accordance with paragraph (a) to be suitable, to be viewed in the home
 - (i) make such other determinations as are required for the issue of classification certificates, and
 - (ii) issue classification certificates; and

- (c) maintain a record of determination made in pursuance of this section including video recordings of the video works to which the determinations relate.
- (2) The Board may determine that a video work submitted to the Board for the issue of a classification certificate
 - (a) is not suitable for a classification certificate to be issued in respect of it; or
 - (b) is not suitable for viewing by persons who have not attained a particular age.
- (3) An appeal against a determination under this section may be made within 21 days of the date of the determination to a Judge in Chambers whose decision is final.

Classification certificates

- 22.(1)** In this Part “classification certificate” means a certificate
- (a) that is issued in respect of a video work in pursuance of arrangements made by the Board; and
 - (b) that satisfies the requirements set out in subsection (2).
- (2) A classification certificate issued under subsection (1) shall contain a statement that
- (a) the video work concerned is suitable for general viewing and unrestricted supply with or without any advice as to the desirability of parental guidance with regard to the viewing of the work by young children or as to the particular suitability of the work for viewing by children; or
 - (b) the video work concerned is suitable for viewing only by persons who have attained the age, not being more than 18 years, specified in the certificate and that no video recording is to be supplied to any person who has not attained the age so specified.

Labelling

23.(1) All video works in respect of which classification certificates have been issued must be labelled with the contents of the classification certificate shown in such manner as may be specified by regulations, on any video recording containing the video work in respect of which the certificate was issued or any spool, case or other article on or in which the video recording is kept.

(2) Regulations under this section may make different provisions for different video works and for different circumstances.

Supplying unclassified video work

24.(1) A person who supplies or offers to supply a video recording containing a video work in respect of which no classification certificate has been issued is guilty of an offence unless

- (a) the supply is an exempted supply; or
- (b) the video work is an exempted work.

(2) Notwithstanding subsection (1), a person referred to in that subsection is not guilty of an offence under that subsection if the person reasonably believed

- (a) that the video work concerned was either an exempted work or a work in respect of which a classification certificate had been issued, or
- (b) that the supply was an exempted supply.

(3) A person who is found guilty of an offence under this section is liable on summary conviction to a fine of \$20 000 or to imprisonment for 2 years or to both.

Possession of unclassified video work for the purposes of supply

25.(1) Where a video recording contains a video work in respect of which no classification certificate has been issued, a person who has the recording in his possession for the purpose of supplying it is guilty of an offence unless

- (a) the person has it in his possession for the purpose only of a supply which, if it took place, would be an exempted supply; or
- (b) the video work is an exempted work.

(2) Notwithstanding subsection (1), a person referred to in that subsection shall not be found guilty under that subsection if the person proves

- (a) that he believed on reasonable grounds that the video work concerned was an exempted work or a work in respect of which a classification certificate had been issued;
- (b) that he had the video recording in his possession for the purpose only of a supply which he believed on reasonable grounds would, if it took place, be an exempted supply by virtue of section 20; or
- (c) that he did not intend to supply the video recording until a classification certificate had been issued in respect of the video work concerned.

(3) A person who is found guilty of an offence under this section is liable on summary conviction to a fine of \$20 000 or to imprisonment for a term of 2 years or to both.

Supplying video work in breach of the classification certificate

26.(1) Where a classification certificate issued in respect of a video work states that no video recording containing that work is to be supplied to any person who has not attained the age specified in the certificate, a person who supplies or offers to supply a video recording containing that work to a person who has not attained the age so specified is guilty of an offence unless the supply is, or would if it took place, be an exempted supply.

- (2) Notwithstanding subsection (1), a person referred to in that subsection shall not be found guilty under that subsection if the person proves
- (a) that he neither knew nor had reasonable grounds to believe that the classification certificate contained the statement concerned;
 - (b) that he neither knew nor had reasonable grounds to believe that the person concerned had not attained that age; or
 - (c) that he believed on reasonable grounds that the supply was or would if it took place, be an exempted supply by virtue of section 20.
- (3) A person who is found guilty of an offence under this section is liable on summary conviction to a fine of \$20 000 or to imprisonment for 2 years or to both.

Non-compliance with requirements as to labelling etc.

- 27.(1)** A person who supplies or offers to supply a video recording or any spool, case or other article on or in which the recording is kept which does not satisfy any requirement imposed by regulations made under section 23 is guilty of an offence unless the supply is or would if it took place, be an exempted supply.
- (2) Notwithstanding subsection (1), a person referred to in that subsection shall not be found guilty of an offence under that subsection if the person proves that
- (a) he believed on reasonable grounds that the supply was, or would if it took place, be an exempted supply by virtue of section 20; or
 - (b) he neither knew nor had reasonable grounds to believe that the recording, spool, case or other article, as the case may be, did not satisfy the requirement concerned.
- (3) A person who is found guilty of an offence under this section is liable on summary conviction to a fine of \$20 000 or to imprisonment for 2 years or to both.

False indication as to classification

28.(1) A person who supplies or offers to supply a video recording containing a video work in respect of which a classification certificate has been issued is guilty of an offence if the video recording or any spool, case or other article on or in which the recording is kept contains any indication that a classification certificate has been issued in respect of that work unless the supply is, or would if it took place, be an exempted supply.

(2) Notwithstanding subsection (1), the person referred to in that subsection shall not be found guilty of an offence under that subsection if that person proves that

- (a) he believed on reasonable grounds
 - (i) that a classification certificate had been issued in respect of the video concerned, or
 - (ii) that the supply was or would if it took place, be an exempted supply by virtue of section 20; or
- (b) he neither knew nor had reasonable grounds to believe that the recording, spool, case or other article as the case may be, did not satisfy the requirement concerned.

(3) A person who supplies or offers to supply a video recording containing a video work in respect of which a classification certificate has been issued is guilty of an offence if the video recording or any spool, case or other article on or in which the recording is kept contains any indication that is false in a material particular of any statement falling within section 22, contained in the certificate, unless the supply is or would if it took place, be an exempted supply.

- (4) Notwithstanding subsection (1), a person referred to in that subsection shall not be guilty of an offence under this section if he proves that
- (a) he believed on reasonable grounds
 - (i) that the supply was, or would if it occurred, be an exempted supply by virtue of section 20, or
 - (ii) that the certificate concerned contained the statement indicated; or
 - (b) he neither knew nor had reasonable grounds to believe that the recording, spool, case or other article, as the case may be, did not satisfy the requirement concerned.

PART IV MISCELLANEOUS

Offence by members of bodies corporate

29. Where the affairs of a body corporate are managed by its members, section 22 (2) of the *Interpretation Act*, Cap. 1 applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Entry, search and seizure

- 30.(1)** Where a magistrate is satisfied by information on oath that there are reasonable grounds for suspecting that
- (a) an offence under this Part has been or is being committed on any premises; and
 - (b) the evidence that the offence has been or is being committed is on those premises,

the magistrate may issue a warrant under his hand authorising any police officer to enter and search the premises within one month from the date of issue of the warrant.

(2) A police officer entering or searching any premises in pursuance of a warrant under subsection (1), may seize anything found there which he has reasonable grounds to believe may be required to be used in evidence in any proceedings for an offence under this Act.

(3) Where a search warrant issued under this section is executed it shall be returned to the magistrate within 72 hours after execution.

Obstructing the Board

31. Any person who obstructs any member of the Board from carrying out the member's duties under this Act or regulations is guilty of an offence and is liable on summary conviction to a fine of \$20 000 or to imprisonment for 2 years or to both.

Arrest

32. If a police officer has reasonable grounds for suspecting that a person has committed an offence under this Act, he may require him to give his name and address and, if that person refuses or fails to do so or gives a name and address which the police officer reasonably suspects to be false, the police officer may arrest him without warrant.

Evidence by certificate

33.(1) Subject to section 17, in any proceedings for an offence under this Act, a certificate signed by a person authorised in that behalf by the Minister and stating

- (a) that he has examined
 - (i) the record maintained in pursuance of arrangements made by the designated authority, and

- (ii) a video work or part of the video work contained in a video recording identified by the certificate, and
- (b) that the record shows that, on the date specified in the certificate, no classification certificate had been issued in respect of the video work concerned,

shall be admissible as evidence of the fact that, on that date, no classification certificate had been issued in respect of the video concerned.

- (2) A certificate referred to in subsection (1), may state
 - (a) that the video work concerned differs in such respects as may be specified from another video work examined by the person so authorised and identified by the certificate; and
 - (b) that the record shows that, on a date specified in the certificate referred to in subsection (1), a classification certificate was issued in respect of that other video work,

and if it does so, is admissible as evidence of the fact that the video work concerned differs in those respects from the other video work.

- (3) In any proceedings for an offence under this Act, a certificate purporting to be signed by a person authorised in that behalf by the Minister and stating
 - (a) that he has examined
 - (i) the record maintained in pursuance of arrangements made by the Board, and
 - (ii) a video work or part thereof contained in a video recording identified by the certificate, and
 - (b) that the record shows that, on the date specified in the certificate, under this subsection, a classification certificate was issued in respect of the video work concerned and that a document identified by the certificate under this subsection is a copy of the classification certificate so issued,

is admissible as evidence of the fact that on that date, a classification certificate in terms of the documents so identified was issued in respect of the video work concerned.

(4) Any document or video recording identified in a certificate tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the person signing the certificate.

(5) Notwithstanding subsections (1) to (3), a certificate referred to in those subsections is not admissible as evidence in proceedings for an offence unless a copy of the certificate has, not less than 7 days before the hearing, been served on the person charged with the offence.

Forfeiture

34.(1) Subject to subsection (2), where a person is convicted of an offence under this Act, the court may order any video recording

- (a) produced to the court, and
- (b) shown to the satisfaction of the court to relate to the offence to be forfeited.

(2) The court shall not order any video recording to be forfeited under subsection (1) if a person claiming to be the owner of it or otherwise interested in it applies to be heard by the court unless an opportunity has been given to him to show cause why the order should not be made.

(3) References in this section to a video recording include a reference to any spool, case or other article on or in which the recording is kept.

(4) An order made under subsection (1) shall not take effect until the expiration of the time within which an appeal may be instituted or, where an appeal is duly instituted, until the appeal is finally decided or abandoned.

Appeal

35. Any person who considers himself aggrieved by a decision of the Board under this Act may, within 14 days after receipt of the decision, appeal to a Judge in Chambers whose decision is final.

Expenses

36. All expenses incurred in the administration of this Act, including the salary, fees or travelling allowances of the members, officers and employees of the Board, are to be defrayed out of the moneys voted by Parliament for the purpose.

Regulations

37. The Minister may make regulations for the purpose of carrying into effect this Act, and any such regulations may prescribe

- (a) salaries to be paid to the officers and employees of the Board;
- (b) the fees and travelling allowances to be paid to the members and Secretary of the Board;
- (c) the charges to be paid for the examination of films and video recordings; and
- (d) the method of labelling video works.

SCHEDULE*(Section 3)**The Constitution and Procedure of the Film Censorship Board*

1. The Minister shall appoint a Board consisting
 - (a) of such fit and proper persons, not less than 5 in number, as he may from time to time deem necessary; and
 - (b) a Secretary to the Board.
2. The Minister may grant leave of absence to any member of the Board or the Secretary of the Board and may temporarily fill the vacancy during such absence.
3. Where any member of the Board or the Secretary of the Board becomes ill or incapable of performing his duties, the Minister may during the illness or incapacity, appoint some other person to act in place of that member.
4. Where the place of any person appointed as a member of the Board or the Secretary of the Board becomes vacant by death, removal, resignation or in any other manner whatsoever, the vacancy so created shall be filled as soon as possible by the Minister.
5. The quorum of the Board shall be a simple majority.