

Films (Amendment) Bill

Bill No. /2018.

Read the first time on

2018.

A BILL

i n t i t u l e d

An Act to amend the Films Act (Chapter 107 of the 1998 Revised Edition) and to make consequential amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Films (Amendment) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of long title

2. The long title of the Films Act is amended by inserting, immediately after the words “and exhibition of films”, the words “, and to provide for the classification of films and for the enforcement of those classifications”.

10 Amendment of section 2

3. Section 2 of the Films Act is amended —

(a) by deleting the definitions of “approved warehouse”, “Authority”, “Board”, “certificate” and “Chairman” in subsection (1) and substituting the following definitions:

15 “advertisement”, for a film, means any of the following where used or apparently used to give publicity to the film or to promote (directly or indirectly) the distribution or public exhibition of the film:

20 (a) any words, whether written or in an audible message;

(b) any still picture, sign, symbol or other visual image or representation;

25 (c) any combination of 2 or more of those things in paragraph (a) or (b),

but does not include —

(d) a trailer of any film;

(e) an advertisement about a film in a book, newspaper, periodical or magazine;

30 (f) a catalogue or price list about films;

- (g) an advertisement about a film appearing on an item of clothing or apparel;
- (h) a website advertisement about a film;
- 5 (i) an advertisement about a film that is broadcast; or
- (j) any communications of personal opinion made by an individual (for no commercial gain) to the public or a section of the public
10 about to any film;

Examples

- (a) A flag, poster, placard, banner, photograph, sketch or signboard about a film.
- 15 (b) An advertisement woven in, impressed on, worked into or annexed to, a container, covering, package, case, box or other thing in or with which a film is distributed.

20 “affix”, for a label relating to a film, means any of the following:

- (a) to apply the label to the film;
- (b) to weave in, impress on, work into or annex the label to, a container, wrapping, case, box
25 or other thing in or with which the film is distributed;
- (c) to apply the label, or to incorporate the label in, an instruction or other like document that accompanies the film;

30 “Authority” means the Info-communications Media Development Authority established under the Info-communications Media Development Authority Act 2016 (Act 22 of 2016);

“broadcasting service” has the meaning given by section 2(1) of the Broadcasting Act (Cap. 28);

“business” includes any business in Singapore, whether or not carried on for profit and whether or not its primary function is connected with films;”;

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(b) by deleting the definition of “distribute” in subsection (1) and substituting the following definitions:

“cinematograph film” means a slide, disc, tape or other article or thing in which visual images are embodied and from which a moving picture may be shown or produced, and includes the aggregate of sounds embodied in a soundtrack (if any) associated with the visual images forming part of the cinematograph film;

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“class licence” means a class licence determined under an order made under section 10A(1);

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“class licensee” means a person to whom an order under section 10A(1) applies;

“classification certificate” means a classification certificate issued under section 18;

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“classification label” means a classification label made available under section 18;

“classification officer” means an officer of the Authority who is appointed as a classification officer under section 4(1)(a);

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“classification rating” means a rating prescribed under section 13;

“classified”, in relation to a film, means —

(a) classified or re-classified by the Authority under section 15 (including deemed classified under section 15(9));

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- (b) classified by a film content assessor and deemed by section 20(1) to be classified by the Authority;
- 5 (c) classified or re-classified under section 26 or 27 by the Committee of Appeal (whether before, on or after the date of commencement of section 13 of the Films (Amendment) Act 2018); or
- 10 (d) classified by the Board of Film Censors by specifying the classification of the film in a certificate approving the exhibition of the film under the Act as in force before the date of commencement of section 11 of the Films (Amendment) Act 2018;
- 15 “classify”, in relation to a film, means assigning under section 15 a classification rating for the film;
- “Committee of Appeal” means the Committee of Appeal established under section 25;
- 20 “computer generated image” means an image (including an image in the form of text) produced by use of a computer on a computer monitor, television screen, mobile device or similar medium from electronically recorded data;
- 25 “contentious material”, for a film, means material comprised in the content of film which would likely cause the Authority to refuse to classify the film;
- “distribute” means doing any of the following without using a broadcasting service:
- 30 (a) sell, supply or let on hire to a person in Singapore;
- (b) offer or agree to sell, supply or let for hire to a person in Singapore;

(c) cause or permit to be sold, supplied to or hired by a person in Singapore;

(d) under or in connection with a commercial arrangement —

5 (i) exchange or supply to a person in Singapore; or

(ii) enable or assist an exchange or a supply to a person in Singapore, even if the exchange or supply is not, by
10 itself, a commercial arrangement;

(e) display or invite to treat for an act mentioned in paragraph (a), (b), (c) or (d);”;

(c) by deleting the definitions of “electronic transmission”, “exhibition”, “film”, “licence” and “Licensing Officer” in
15 subsection (1) and substituting the following definitions:

““electronic transmission” includes electronic mail, telecommunications and other electronic communication;

20 “exempt film” means a film that is, by section 40, exempt from all provisions of this Act;

“exhibit” includes —

(a) for a film that is a video game, to demonstrate or display the video game, but does not include any activity that is public
25 entertainment within the meaning of the Public Entertainments Act (Cap. 257); and

(b) for a film that is not a video game, to display, screen or project the contents contained in the film in order that another individual may see it (regardless of the manner of the film’s
30 reception),

and further includes the meaning given in subsection (5);

“film” means —

- (a) a cinematograph film or video recording;
- (b) a video game; or
- (c) any other form of recording from which a moving visual image except as provided otherwise in subsection (6), including a computer generated image, can be produced and viewed (together with its soundtrack),

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and includes any trailer for a film and any part of a film;

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“film content assessor” means an individual who is registered under section 19, but does not include an individual during the period his registration as such is suspended;

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“interactive game” means a game in which the way the game proceeds, and the result achieved at various stages of the game, is determined in response to decisions, inputs and the direct involvement of the player;

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“licence” means a licence granted under section 7;

“licensee” means the person to whom a licence is granted, but does not include —

- (a) a class licensee; or
- (b) a person whose licence is suspended during any period of suspension;

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“licensing officer” means an officer of the Authority who is appointed under section 4(1)(b);

“mobile device” includes a mobile telephone or other device that is designed to run a mobile operating system;

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“modify”, in relation to any conditions of a licence or classification certificate, includes —

- (a) deleting, or varying and substituting such a condition; and
 - (b) adding such a condition;”;
 - (d) by deleting the definitions of “owner” and “owner of a film”
5 in subsection (1);
 - (e) by deleting the definitions of “place”, “Secretary” and “supply” in subsection (1) and substituting the following definitions:
 - “ “place” includes —
 - 10 (a) any vacant land in Singapore;
 - (b) any, or part of any, building or structure of any kind in Singapore, whether vacant or occupied; or
 - 15 (c) any vehicle, vessel or aircraft in Singapore, other than —
 - 20 (i) a vehicle on a journey, whether direct or indirect, between a place in Singapore and a place outside Singapore and includes any part of the journey that may occur within Singapore;
 - 25 (ii) a vessel on a voyage, whether direct or indirect, between a place in Singapore and a place outside Singapore and includes any part of the voyage that may occur within Singapore; or
 - 30 (iii) an aircraft on a flight that passes through the air space over the territory of more than one country and includes any part of the flight that may occur within Singapore;
- “prohibited film” means a film that is the subject of an order made under section 35(1);

“public place” means —

- 5 (a) any place in Singapore to which members of the public have access as of right or by virtue of express or implied permission, whether or not access to the place may be restricted at particular times or for particular purposes; or
- 10 (b) a part of a place in Singapore that the occupier of the place allows members of the public to enter, but only while the place is ordinarily open to members of the public,

whether or not it is an “approved place” within the meaning of the Public Entertainments Act (Cap. 257);

15 “publicly exhibit”, in relation to a video game, a film that is not a video game, or an advertisement for a film (whether or not a video game), means to exhibit the video game, film or advertisement, as the case may be, in a public place (such as a cinema or theatre) or so that it can be seen from a public place, and includes —

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- 25 (a) arranging or conducting the exhibition of the video game, film or advertisement, as the case may be, in a public place or so that it can be seen from a public place; or
- (b) having the superintendence or management of the place in or from which the video game, film or advertisement, as the case may be, is publicly exhibited;

30 “publish”, in relation to an advertisement for a film, means to publicly exhibit, display, disseminate or otherwise communicate to the general public;

“re-classify”, in relation to a classified film, means to review the classification of the film and —

(a) to alter the classification by raising or lowering the classification applicable to the film; or

(b) to revoke the classification for the film;

5 “register of film content assessors” means the register of film content assessors required under section 20C to be kept and maintained by the Authority;

“supply”, in relation to a film, includes any of the following:

10 (a) supplying the contents of the film by electronic transmission to which this Act applies;

(b) offering or giving the film as a prize in any lottery, raffle, draw, game or competition;

15 (c) offering or giving away the film for the purpose of advertisement or in furtherance of any business;

“telecommunications” has the meaning given by the Telecommunications Act (Cap. 323);

20 “trailer”, in relation to a film, means a cinematograph film or video recording that —

(a) contains selected extracts or images from, or part of, the film; and

25 (b) is used for, or prepared for the purpose of, giving publicity to the film;

“vehicle” includes a train;

“video game” means a kind of film that is a disc, tape, storage device or other article or thing embodying —

30 (a) a computer program, and any associated data, that is capable of generating a display on a computer monitor, television screen,

mobile device or similar medium that allows the playing of an interactive game; or

(b) a computer program, and any associated data, that is —

5 (i) capable of generating new elements or additional levels into a game (called in this definition as the original game) that is a computer program; and

10 (ii) contained in a device separate from that containing the original game,

but excludes a video-game made available by means of a computer online service that is a broadcasting service and is played —

15 (c) on a mobile device or other device onto which it has been installed; or

(d) while the player is using a broadcasting service that enables end users to access the Internet;”;

20 (f) by deleting the word “Board” in subsection (2)(a) and substituting the word “Authority”; and

(g) by inserting, immediately after subsection (3), the following subsections:

“(4) This Act extends to apply to an electronic transmission —

25 (a) the sender of which is —

(i) an individual who is physically present in Singapore when the electronic transmission is sent; or

30 (ii) an entity whose central management and control is in Singapore when the electronic transmission is sent,

unless none of the recipients of the transmission is a person in paragraph (b);

(b) the recipient of which is —

(i) an individual who is physically present in Singapore when the electronic transmission is sent; or

5 (ii) an entity that carries on business or activities in Singapore when the electronic transmission is accessed,

even though the sender is outside Singapore;

10 (c) where the computer, server or mobile device that is used to access the electronic transmission is located in Singapore; or

15 (d) if the electronic transmission cannot be delivered because the relevant electronic address has ceased to exist (assuming that the electronic address existed), where it is reasonably likely that the electronic transmission would have been accessed using a computer, server or mobile device located in Singapore.

20 (5) Without affecting the definition of “exhibit” in subsection (1), where content (but not live content) comprising wholly or in part moving images —

(a) is supplied by broadcasting service, telecommunications or other electronic transmission (such as real-time transmission); and

25 (b) is received on a computer monitor, television screen, mobile device or similar medium equipment appropriate for receiving that content,

30 the showing of the content by the recipient to one or more other individuals is taken to be an exhibition of a film and in these circumstances, the content comprising wholly or in part moving images so received is deemed to be a film.

(6) Subject to subsection (5), private viewing alone of a film by an individual does not constitute exhibiting the film by the individual.”.

Repeal and re-enactment of sections 3 and 4

5 **4.** Sections 3 and 4 of the Films Act are repealed and the following sections substituted therefor:

“Authority to administer this Act

10 **3.** It is the function of the Authority to exercise licensing and classification functions in accordance with this Act with respect to films, and to otherwise enforce and administer this Act.

Classification officers and licensing officers

4.—(1) The Authority may appoint any officer of the Authority as either or both of the following:

- 15 (a) a classification officer for the administration and enforcement of this Act in relation to the classification of films;
- (b) a licensing officer for the administration and enforcement of this Act in relation to licensing.

20 (2) The Authority must issue to each classification officer and licensing officer an identification card, which must be carried at all times by the officer when exercising powers under any provision in this Act or its subsidiary legislation.”.

Amendment of section 4A

25 **5.** Section 4A of the Films Act is amended by deleting the word “Board” in subsections (1) and (2) and substituting in each case the word “Authority”.

Amendment of section 5

30 **6.** Section 5 of the Films Act is amended —

 (a) by deleting subsection (1) and substituting the following subsection:

“(1) Subject to subsection (4), the Authority may delegate to —

5 (a) a classification officer the exercise of all or any of the powers conferred or duties imposed upon it by this Act or any of its subsidiary legislation relating to classification of films; or

10 (b) a licensing officer the exercise of all or any of the powers conferred or duties imposed upon it by this Act or any subsidiary legislation made under this Act relating to those provisions,

and any reference to the Authority in that provision in this Act or its subsidiary legislation includes a reference to such a classification officer or licensing officer, as the case may be.”;

15 (b) by deleting the word “Board” in subsection (2) and in the section heading and substituting in each case the word “Authority”; and

 (c) by deleting subsections (3) and (4) and substituting the following subsections:

20 “(3) A delegation under subsection (1) may be general or in a particular case, and may be subject to such conditions or limitations as set out in this Act or as the Authority may specify.

25 (4) Nothing in this section authorises the Authority delegating the power of delegation conferred by this section.”.

Repeal and re-enactment of section 6

7. Section 6 of the Films Act is repealed and the following section substituted therefor:

30 **“Licence to import, exhibit or distribute film**

6.—(1) A person must not —

 (a) import any film in the course of any business;

- (b) distribute any film in the course of any business; or
 - (c) publicly exhibit any film in the course of any business,
- unless the person is authorised to do so by a licence.

5 (2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part of a day during which the offence continues after conviction.”.

10 **Amendment of section 7**

8. Section 7 of the Films Act is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

15 “(1) An application for a licence must be made to the Authority, be accompanied by an application fee (if prescribed), and be made in the form or manner determined by the Authority.”;

- (b) by deleting the words “Licensing Officer” in subsection (2) and substituting the word “Authority”; and

- 20 (c) by deleting subsection (3) and substituting the following subsections:

“(3) A licence may be granted in such form as the Authority determines.

25 (4) Subject to subsection (5), the Authority may, at any time, modify the conditions of a licence.

30 (5) Unless the Authority considers it impractical or undesirable in the circumstances of the case, the Authority must, before proceeding to modify any condition of a licence under subsection (4), give the licensee concerned notice in writing of its intention to do so, and an opportunity to make a representation, within such time as may be specified in the notice, as to why the condition should not be modified.”.

Repeal and re-enactment of section 8

9. Section 8 of the Films Act is repealed and the following section substituted therefor:

“Security

5 **8.**—(1) The Authority may, before granting a licence, require the applicant to give a performance bond, guarantee or other form of security on such terms and conditions and of such amount as the Authority considers appropriate —

10 (a) to ensure that the provisions of this Act and the conditions of the licence will be duly observed; and

 (b) to meet any financial penalty arising out of any proceedings under section 11 against the licensee.

15 (2) If a licensee fails to pay any financial penalty ordered under section 11, the Authority may enforce the payment by forfeiting the whole or any part of the deposit placed by the licensee under this section.

 (3) This section does not affect the operation of section 11.”.

Amendment of section 10

20 **10.** Section 10 of the Films Act is amended by deleting the words “Licensing Officer” wherever they appear and substituting in each case the word “Authority”.

Repeal of sections 11 to 20 and new sections 10A to 20C

11. Sections 11 to 20 of the Films Act are repealed and the following sections substituted therefor:

“Class licence for certain imports, etc., of certain films

25 **10A.**—(1) The Authority may, by order in the *Gazette*, determine a class licence that authorises any person to which the order applies —

30 (a) to import, distribute or publicly exhibit a film of a specified kind in the course of any business;

- (b) to import, distribute or publicly exhibit a film in the course of a specified business; or
- (c) to import, distribute or publicly exhibit a film of a specified kind in the course of a specified business.

5 (2) The Authority may include in the class licence such conditions as it thinks fit, including but not limited to the following:

- 10 (a) a condition specifying the places at which, the geographical area within which, or the periods during which, the import, distribution or public exhibition of the film is authorised under the class licence;
- (b) a condition that any class licensee under the class licence must comply with a code or standard incorporated by the class licence and made applicable to the person;
- 15 (c) a condition that facilitates compliance by class licensees with the classification requirements of this Act,

20 and the order in the *Gazette* must include all the conditions of the class licence.

(3) Different conditions may be specified for different types of activities described in subsection (1).

(4) Subject to this section, the Authority may, by order in the *Gazette*, vary the class licence by —

- 25 (a) varying or revoking any condition specified in the class licence; or
- (b) specifying additional conditions of the class licence.

30 (5) Before varying a class licence under subsection (4) or revoking the order under subsection (1) determining a class licence, the Authority must, unless it considers it impractical or undesirable in the circumstances of the case, cause to be published, in accordance with subsection (6), a written notice that —

- (a) states that it proposes to vary the class licence, or to revoke the class licence;
- (b) describes the proposed variation or revocation; and
- (c) invites interested persons to make representations about the proposed variation or revocation by a specified date that is at least one month after the date of publication of the notice.

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(6) A notice under subsection (5) must be published on the Authority's website and in one or more other forms that are readily accessible by the public.

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(7) The Authority must, before varying a class licence under subsection (4) or revoking the order under subsection (1) determining a class licence, give due consideration to any representations made to it pursuant to the notice given in accordance with subsection (5).

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(8) The import, distribution or public exhibition of a film by any person to which an order under subsection (1) applies is deemed authorised by a licence if it is done in accordance with the conditions of the class licence.

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Regulatory action against licensees, etc.

11.—(1) Subject to this section, the Authority may, without compensation, by order in writing, take regulatory action described in subsection (2) against a licensee or class licensee if the Authority is satisfied that —

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(a) the licensee is contravening or has contravened any condition of its licence, or the class licensee is contravening or has contravened any condition of the class licence, which contravention is not an offence under this Act;

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(b) the licensee or class licensee has been convicted, during the term of its licence or the class licence, of any offence under this Act or any subsidiary legislation made under this Act;

- (c) the licence had been obtained by the licensee by fraud or misrepresentation;
- (d) the licensee or class licensee has ceased —
- 5 (i) to import or distribute films in the course of business; or
- (ii) to publicly exhibit films in the course of business;
- (e) the licensee or class licensee has been declared bankrupt, or has gone into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
- 10 (f) the licensee or class licensee fails to comply with an order under this section to pay a financial penalty;
- (g) the public interest so requires; or
- (h) the licensee has imported or distributed, or publicly exhibited, as the case may be, films in the course of business in contravention of any order of the Authority made under subsection (2)(b)(ii) or (iii).
- (2) The regulatory action that the Authority may take against a licensee or class licensee is as follows:
- 20 (a) with or without forfeiting any security furnished by the licensee under section 8 or this section —
- (i) revoke a licence of that licensee; or
- (ii) disapply the class licence in an order under section 10A(1) with respect to that class licensee;
- 25 (b) in lieu of paragraph (a), all or any of the following:
- (i) suspend the licence or the application of the class licence (as the case may be) for a period not exceeding 6 months;
- (ii) for a licensee, remove from the licence any place specified in the licence at which the licensee is authorised to distribute or publicly exhibit a film;
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- (iii) for a licensee, modify the conditions of the licence, about the import, distribution or public exhibition, as the case may be, of films by the licensee;
 - (iv) for a licensee, require the licensee to furnish additional security in the form mentioned in section 8;
 - (v) for a licensee, require the licensee to forfeit the whole or part of any security furnished under section 8 and this section but not exceeding the limit in sub-paragraph (vi);
 - (vi) for a licensee or class licensee, direct it to pay, within a period specified, a financial penalty of such amount as the Authority thinks fit, being not more than \$ 10,000.
- (3) Before exercising any powers under this section, the Authority must, unless it is not practicable or desirable to do so in the circumstances of the case, give written notice to the licensee concerned —
- (a) stating that the Authority intends to take regulatory action against the licensee under subsection (1);
 - (b) specifying the type of regulatory action in subsection (2) the Authority proposes to take, and each instance of non-compliance that is the subject of the regulatory action; and
 - (c) specifying the time (being not less than 7 days and not more than 28 days after the date the written notice is served on the licensee) within which written representations may be made to the Authority with respect to the proposed regulatory action.
- (4) The Authority may decide to take the appropriate regulatory action described in subsection (2) —
- (a) after considering any written representation made to it pursuant to the written notice under subsection (3); or

(b) after the time delimited in the written notice under subsection (3)(c) lapses, where no representation is so made.

5 (5) However, subsection (3) does not apply where the licensee or class licensee has died or is adjudged a bankrupt, or has been dissolved or wound up, or has otherwise ceased to exist.

10 (6) Where the Authority decides under subsection (1) to take regulatory action against a licensee or class licensee, the Authority must serve on the licensee or class licensee concerned a written notice of that decision.

(7) Any decision by the Authority under subsection (1) does not take effect until the Authority has served the written notice in subsection (6) on the licensee concerned, or on a later date specified in that notice.

15 (8) An appeal under section 28 against any decision of the Authority under subsection (1) does not prevent that decision taking effect in accordance with subsection (7).

(9) Where a decision to revoke a licence or to disapply a class licence under subsection (1) becomes effective —

20 (a) the Authority must cause notice of the revocation or disapplication (as the case may be) to be published on the Authority's website; and

25 (b) as from the date the decision takes effect, the former licensee or former class licensee concerned must stop importing, distributing or publicly exhibiting films except to the extent specially approved by the Authority.

30 (10) Any revocation or suspension of any licence, and any disapplication or suspension of the application of a class licence, does not prejudice —

(a) the enforcement by any person of any right or claim against the licensee or class licensee, or the former licensee or former class licensee (as the case may be); or

(b) the enforcement by the licensee or former licensee, or class licensee or former class licensee (as the case may be), of any right or claim against any person.

5 (11) In any proceedings under this section in relation to the conviction of a licensee or class licensee for an offence, the Authority may accept the licensee's conviction as final and conclusive.

10 (12) If the financial penalty imposed under this section in relation to any regulatory action taken by the Authority exceeds the total amount of the deposit placed by the licensee under section 8 and this section, the amount of the excess is a debt due to the Authority.

Permit to remove imported films

12.—(1) A person must not remove any film —

- 15 (a) in the case of a film imported by sea, from the vessel by which the film was imported or from any premises of a provider of port services or facilities licenced or exempted under the Maritime and Port of Authority of Singapore Act (Cap. 170A);
- 20 (b) in the case of a film imported by air, from the airport; or
- (c) in the case of a film imported by land, from a post office, railway station or other place of arrival,

except under the authority of a permit from the Authority.

25 (2) The permit referred to in subsection (1) must be in the form, and for the validity period, that the Authority determines.

(3) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

30 (4) This section does not apply to any film which has been classified.

Types of classification and classification ratings

13.—(1) The Minister must, by order published in the *Gazette*, prescribe —

- (a) the different types of classifications for films;
- 5 (b) the ratings for each type of classification giving information about the classification (called in this Act classification ratings); and
- (c) the markings for each type of classification rating.

10 (2) An order made under subsection (1) may prescribe different types of classification ratings for different kinds of films.

(3) For the purposes of this Act, the classification stating that a film is fit for viewing by any member of the public of any age is the lowest classification.

Applications for classification or re-classification

14.—(1) An application for classification or re-classification of a film must —

- (a) be made to the Authority in the form and manner the Authority determines; and
- 20 (b) be accompanied by —
 - (i) the fee prescribed (if any) for the classification which is sought for the film in that application;
 - (ii) other documents or information prescribed (if any) for that category of film; and
 - 25 (iii) any other information that the Authority may require in that particular case.

(2) The Authority may decline to deal with an application under subsection (1) for classification or re-classification of a film, or decline to deal further with that application, if —

- 30 (a) the applicant fails —

- (i) to provide or make available a copy of the film for screening or demonstration before the Authority;
 - (ii) to demonstrate the film before the Authority;
 - 5 (iii) in the case of a film that is designed for use wholly or principally as a video game, to provide to the Authority recordings of the gameplay; or
 - (iv) to furnish the information required under subsection (1)(b); or
- 10 (b) in the opinion of the Authority, the copy of the film or the recordings of the gameplay (as the case may be) provided is incomplete or inadequate to allow a proper consideration of the application.
- 15 (3) In classifying or re-classifying a film, the Authority must assume that the film will be distributed or publicly exhibited only in the form in which it is being considered for classification or re-classification under this section.
- 20 (4) Where a film is to be screened for the purpose of classification or re-classification under this section, only the following individuals, or combination of such individuals, may be present at the screening:
- (a) a member of the Authority;
 - (b) a classification officer to whom the Authority has delegated its functions under section 5(1);
 - (c) the projectionist of the film;
 - 25 (d) a member of the advisory committee which the Authority intends to consult with regard to the film;
 - (e) any public officer or other individual whom the Authority thinks may assist it in classifying or re-classifying the film.
- 30 (5) The Authority may retain a copy of any film that is the subject of an application under this section for so long as the Authority requires.

Classification and re-classification of films

15 **15.**—(1) Subject to subsection (10), the Authority must, on receipt of an application under section 14 for the classification or re-classification of a film, or on the referral of the Minister under section 24A(1)(b), view the film and then —

- (a) classify or re-classify the film, as the case may be;
- (b) provisionally classify or re-classify the film (as the case may be) subject to such alterations or excisions as the Authority may specify.

10 (2) Where —

- (a) a decision of a film content assessor assigning a classification rating in relation to a film is, by the operation of section 20(1), taken to be a decision of the Authority classifying the film; and
- 15 (b) the Authority is of the opinion that the Authority would have given the film a different classification rating (whether on its own initiative under subsection (3) or on application under section 14),

20 the Authority may, after viewing the film, revoke the classification by the film content assessor and then re-classify the film by giving the film a different classification rating.

25 (3) Subject to subsection (10), the Authority may, on its own initiative, call in a classified film for re-classification purposes or an unclassified film for classification purposes and, after viewing the film —

- (a) classify or re-classify the film, as the case may be; or
- (b) provisionally classify or re-classify the film, as the case may be, subject to such alterations or excisions as it may specify.

30 (4) However, where after viewing a film in the circumstances in subsection (1), (2) or (3), the Authority is of the opinion that the film —

- (a) is within the ambit of section 16; or

(b) is wholly not suitable for distribution or public exhibition,

the Authority must refuse to classify the film (after revoking any prior classification of the film), and give reasons for that decision.

5 (5) The matters to be taken into account by the Authority in making a decision on the classification or re-classification of a film under this section include —

- (a) the standards of morality, decency and propriety generally accepted by reasonable adults in Singapore;
- 10 (b) the literary, artistic or educational merit (if any) of the film;
- (c) the general character of the film; and
- (d) the person or class of persons to or amongst whom the film is distributed or publicly exhibited or is intended or likely to be distributed or publicly exhibited or distributed.
- 15

(6) Before making its decision under subsection (1), (2), (3) or (4) and for the purpose of forming an opinion on which to base such decision, the Authority may consult an advisory committee or any other person in respect of the film; but the Authority is not bound by any advice from the consultation.

20

(7) In classifying or re-classifying any film under subsection (1), (2) or (3), the Authority may also determine the consumer advice giving information about the content of the film.

25

(8) As soon as practicable, but not later than 14 days, after a decision is made under subsection (1), (2), (3) or (4) in respect of a film, the Authority —

- (a) must give to an applicant written notice of its decision under this section in respect of the applicant's application for classification or re-classification of the film; and
- 30

- (b) must, in the case of re-classification of a film (whether on the own initiative of the Authority or on application), publish the decision on the Authority's official website, and in one or more other forms that are readily accessible by the public.
- 5
- (9) A provisional classification of a film —
- (a) lapses at the end of 6 months after it is made; and
- (b) is deemed a classification of that film upon the Authority confirming in writing that all the conditions contained in its provisional classification have been complied with before the end of the period in paragraph (a).
- 10
- (10) This section does not authorise the Authority to exercise any power under this section in relation to a film that —
- 15
- (a) is an obscene film, a party political film or a prohibited film;
- (b) the Minister has or is deemed to have refused classification on the ground that it is against national security for the film to be classified; or
- 20
- (c) that the Committee of Appeal has, on appeal to it, made (whether before, on or after the date of commencement of section 13 of the Films (Amendment) Act 2018) a decision, unless —
- 25
- (i) more than 5 years has lapsed after the decision of the Committee of Appeal takes effect; or
- (ii) the Authority earlier changes any part of its classification guidelines, being a change that relates to any part of the film's content.

Calling in films for classification or re-classification

- 30
- 15A.**—(1) For the purpose of section 15(3), a film may be called in for classification or re-classification by the Authority giving an order in writing to —

- (a) a licensee or class licensee who is distributing or publicly exhibiting the film which is a classified film; or
- (b) a maker or other person in possession of the film which is an unclassified film.

(2) An order under subsection (1) may require a person given the order to do the following within a period specified in the order:

- (a) to provide or make available a copy of the film for screening or demonstration before the Authority;
- (b) to demonstrate the film before the Authority;
- (c) in the case of a film that is designed for use wholly or principally as a video game, to provide to the Authority recordings of the gameplay;
- (d) to provide such other information about the film that the Authority may require in that particular case.

(3) A person who, without reasonable excuse, fails to do anything required of the person by an order under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Refused classification for certain films

16.—(1) Despite anything in this Act, the Authority, the Committee of Appeal and an individual who is registered as a film content assessor must refuse classification of any film that —

- (a) is an obscene film;
- (b) is a party political film;
- (c) is a prohibited film;
- (d) is against national security to be classified; or
- (e) contains any material prescribed.

(2) A film which is refused classification is an unclassified film.

De-classification of classified film

5 **17.**—(1) If the content of a classified film is modified, the film as modified becomes unclassified when the modification is made; and the classification of the film with the modifications is also deemed to be then revoked.

(2) Without prejudice to subsection (1), the Authority may revoke the classification of a film if it is of the opinion that —

- 10 (a) the film contains contentious material that was not brought to the Authority's attention before the classification was made; or
- (b) the Authority would have given the film a different classification if it had been aware of the material before
- 15 the classification was made.

(3) Subsection (1) does not apply to a modification that consists of —

- (a) the addition or removal of navigation functions (such as but not limited to an interactive menu); or
- 20 (b) any content or material that is prescribed as not likely to cause the film to be given a different classification rating.

(4) Where the classification of a film is revoked under subsection (1) or (2), the Authority must —

- 25 (a) without delay notify the person who applied for the classification of that film under section 14 (unless the person cannot be found after reasonable inquiry) of the revoking of the film's classification and the effective date of the revocation; and
- 30 (b) cause to be published in the *Gazette*, a notice of the revoking of the film's classification and the effective date of the revocation.

(5) However, failure to publish a notice under subsection (4)(b) in respect of any revocation of the classification of a film does not invalidate the revocation where notice thereof has been given under subsection (4)(a).

5 (6) To avoid doubt, it is declared that where a classification certificate in respect of a film is revoked or deemed to be revoked under this section, that revocation applies in respect of each copy of that film as it applies to that film.

Classification certificates and labels

10 **18.—**(1) The Authority must —

(a) issue a classification certificate for each film that is classified under section 15, 26 or 27, or re-classified under section 15, 26 or 27; and

15 (b) make available a label (called in this Act a classification label) to be affixed to the film.

(2) The Authority may impose in relation to a classification certificate such conditions as it thinks fit relating to the circumstances of distribution or public exhibition of the film to which the classification certificate relates.

20 (3) A classification certificate issued in respect of a classified film must include —

(a) the classification ratings for the classification given to the film;

(b) any consumer advice for the film; and

25 (c) the conditions about the display of the classification ratings and consumer advice (if any), on —

(i) any advertisement of the film; and

(ii) on the container, wrapping, casing, box or other thing in or with which the film is to be distributed.

30 (4) Where a classification certificate is issued and in force in respect of a film, that certificate applies to each copy of the film that is identical in content with it as if that copy were that film

and, for that purpose, any reference in this Act to that film includes a reference to every copy of that film.

(5) A classification label in respect of a film must —

- 5
- (a) show the markings for the classification rating for the classification given to the film; and
 - (b) be affixed, in the manner prescribed (if any), to every copy of the film before the film is distributed or publicly exhibited.

10

(6) In any proceedings for an offence under this Act, if a copy of a film or a container of the film is distributed or publicly exhibited with a classification label affixed to it in the manner prescribed for the purposes of subsection (5), the label is sufficient evidence of the fact that the film is a classified film of the classification rating stated on that label unless the contrary is established.

15

(7) Where the Authority issues a classification certificate for any film, it may where the Authority considers appropriate, require the person who applied under section 14 for the classification or re-classification of the film to deposit with the Authority a copy of the film identical in content to that which was classified, and in the form the Authority specifies —

20

- (a) not later than 14 days after the date the classification certificate was issued; or
 - (b) such longer period as the Authority may allow in any particular case.
- 25

(8) A person who, without reasonable excuse, fails to comply with any requirement of the Authority under subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

30

Film content assessors

19.—(1) Subject to this Act, the Authority may, by registering an individual under this section, authorise the individual to do all the following work (whether or not for reward):

- (a) view and assess the content of a film that has not been classified by the Authority or the Committee of Appeal for the purposes of classifying the film's content;
- 5 (b) assign a classification rating for the film that would, if classified by the Authority, be substantially likely to be classified not higher than the prescribed classification rating (called in this Act the maximum permitted classification rating);
- 10 (c) submit to the Authority a report of the assessment and the classification rating the individual assigned to the film.

(2) An individual is eligible to be registered as a film content assessor or have the individual's registration so renewed only if —

- 15 (a) the individual has paid the fees prescribed (if any) for the registration or renewal;
- (b) the individual satisfies the Authority that he has successfully completed the training decided by the Authority; and
- 20 (c) the individual satisfies such other requirements as may the Authority determines for such registration or renewal.

(3) Without limiting subsection (2), the Authority may refuse to register, or to renew the registration of, an individual as a film content assessor if, in the opinion of the Authority —

- (a) the individual is not of good character and reputation; or
- 25 (b) there are reasonable grounds for believing that the individual will not carry out the duties of a film content assessor in accordance with this Act or its regulations.
- 30

(4) An individual who is not registered under this section as a film content assessor —

- (a) must not undertake (whether or not for reward) any work specified in subsection (1)(a), (b) or (c); and
- (b) must not advertise or hold himself out or describe himself in any way to be registered as a film content assessor.

5

(5) An individual who contravenes subsection (4)(a) or (b) shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding \$5,000.

Duties of film content assessor

10 **20.**—(1) A film content assessor's decision assigning a classification rating for an unclassified film is taken, for the purposes of this Act, to be a decision of the Authority classifying the film.

(2) However, if —

15

- (a) a film contains contentious material; or
- (b) a film would, if classified by the Authority, be substantially likely to be classified higher than the maximum permitted classification rating,

20

a film content assessor must not view and assess the content of the film with a view to assigning a classification rating for the film, and must not assign a classification rating for that film.

Procedure for registration as film content assessor

25

20A.—(1) An application for registration, or to renew any registration, as a film content assessor must be made in the manner, and must be accompanied by the documents and particulars, determined by the Authority.

(2) Upon receiving an application under subsection (1), the Authority may, after considering the application —

30

- (a) register or renew the registration of, as the case may be, the applicant as a film content assessor, with or without conditions; or
- (b) refuse the registration or renewal, as the case may be.

(3) Every registration as a film content assessor —

- (a) is valid for the period specified by the Authority (being no longer than 24 months), unless earlier cancelled under section 20B; and
- 5 (b) may be renewed for a period specified by the Authority (being also no longer than 24 months).

Regulatory action against registered film content assessor

10 **20B.**—(1) Subject to subsection (3), the Authority may, by order in writing, and without any compensation, cancel the registration of an individual as a film content assessor, or take all or any regulatory action specified in subsection (2) against the individual, where the Authority is satisfied that —

- (a) the individual obtained his registration, or the renewal of his registration, by fraud or misrepresentation;
- 15 (b) the individual no longer satisfies any of the requirements in section 19(2)(b) or (c) by virtue of which he was registered under that section;
- (c) the individual is convicted of any offence involving fraud or dishonesty, or an offence under this Act or any of its regulations, for conduct when the individual is registered as a film content assessor;
- 20 (d) the individual is, for any medical or any other reason, no longer in a position to carry out effectively the duties of a film content assessor under this Act and its regulations;
- 25 (e) the individual has contravened section 20(2);
- (f) the individual has, without reasonable excuse, not completed such further training in the making of assessments as the Authority has directed the individual to attend;
- 30 (g) the individual has engaged in conduct rendering the individual unfit to be a film content assessor.

(2) The regulatory action that the Authority may take in lieu of cancelling registration as a film content assessor are —

(a) to impose a financial penalty not exceeding \$5,000 for conduct that does not constitute an offence under this Act; or

(b) to suspend (for a period not exceeding 6 months) the registration of an individual as a film content assessor.

(3) The Authority must not exercise any of its powers under subsection (1) or (2) unless an opportunity of being heard has been given to the film content assessor against whom the Authority intends to exercise any of those powers, being a period of at least 14 days and not more than 28 days.

(4) Where the Authority has made an order under subsection (1) or (2), the Authority must serve on the film content assessor concerned a notice of every order.

(5) Subject to subsection (6), an order by the Authority under subsection (1) or (2) does not take effect until the 8th day after the Authority has served on the film content assessor concerned the notice mentioned in subsection (4).

(6) An appeal under section 28 against any order by the Authority under subsection (1) or (2) does not prevent that order taking effect in accordance with subsection (5).

(7) However, the Authority may, without complying with subsections (3) to (6), by order in writing cancel with immediate effect the registration of a film content assessor who has died.

(8) Where an order under subsection (1) or (2) suspending or cancelling the registration of an individual as a film content assessor becomes effective, the Authority must remove the name and particulars of that individual from the register of film content assessors.

(9) If the registration of an individual as a film content assessor is suspended under this section for any period, then the Authority must, immediately after the period of suspension ends, reinstate

the individual's name and particulars on the register of film content assessors.

5 (10) In any proceedings under this section in relation to the conviction of film content assessor for a criminal offence, the Authority may accept the conviction as final and conclusive.

(11) Any financial penalty imposed under this section may be recovered by the Authority as a debt due to it.

10 (12) For the purpose of subsection (1)(g), a film content assessor may be treated as having engaged in conduct that renders him unfit to be a film content assessor —

- (a) had assigned a classification rating for 2 or more films which are re-classified by the Authority under section 15; or
- 15 (b) had assigned a classification rating for a film which is reclassified by the Authority under section 15(2) and —
 - (i) the original classification is 2 or more levels higher than the re-classification of the film by the Authority; or
 - 20 (ii) the assessment of the content of the film which he prepared and submitted to the Authority for the original classification is misleading or incorrect or contains grossly inadequate information.

Register of film content assessors

25 **20C.**—(1) The Authority must keep and maintain a register of film content assessors containing the names and other relevant particulars of all individuals who are registered as film content assessors under this Act.

30 (2) The absence of the name of any individual from the register of film content assessors is prima facie evidence that the individual is not a film content assessor registered under this Act or that the person's registration is cancelled or suspended.

(3) The register of film content assessors must be published on the Authority’s internet website, or on such other medium which is accessible to members of the public as the Minister may require.”.

5 **Amendment of section 21**

12. Section 21 of the Films Act is amended —

(a) by deleting subsection (1) and substituting the following subsections:

“(1) A person commits an offence if —

- 10 (a) the person —
- (i) distributes or publicly exhibits an unclassified film; or
 - (ii) has in the person’s possession a film that is an unclassified film, with the intention of distributing or publicly exhibiting the film;
- 15 and
- (b) the person knows or ought reasonably to have known that, or is reckless as to whether, the film is an unclassified film.
- 20 (1A) A person commits an offence if the person —
- (a) distributes or publicly exhibits a film with a title that is not the same as the title under which the film is classified; and
 - (b) the person knows or ought reasonably to have known that, or is reckless as to whether, the film’s title is not the same as the title under which the it is classified.
- 25
- (1B) A person commits an offence if—
- (a) the person distributes or publicly exhibits a film with contents that is not the same as that in which it is classified; and
- 30

(b) the person knows or ought reasonably to have known that, or is reckless as to whether, the film's contents are not the same as that in which it is classified.

5 (1C) Subsections (1A) and (1B) do not apply to a film the contents of which only contain a modification mentioned in section 17(3).

(1D) A person commits an offence if —

(a) the person distributes a classified film —

- 10 (i) without a classification label made available under section 18 for that film affixed to the film;
- 15 (ii) affixed with a classification label showing a classification rating otherwise than in accordance with the classification assigned to that film under this Act; or
- 20 (iii) affixed otherwise than in accordance with the manner prescribed, with a classification label made available under section 18 in respect of that film; and

(b) the person knows or ought reasonably to have known that, or is reckless as to whether —

- 25 (i) no classification label made available under section 18 for that film is affixed to the film;
- (ii) a classification label showing a classification rating otherwise than in accordance with the classification assigned to that film under this Act is affixed to the film; or
- 30 (iii) a classification label made available under section 18 in respect of that film is affixed otherwise than in accordance with the manner prescribed,

as the case may be.

(1E) A person commits an offence if —

- 5 (a) the person distributes a classified film without the consumer advice applicable to the film displayed on the film or the container, wrapping, casing, box or other thing in which the film is distributed; and
- (b) the person knows or ought reasonably to have known that, or is reckless as to whether the consumer advice applicable to the film is so displayed.

10 (1F) Where conditions have been imposed under section 18(3) for the classification certificate issued for a film and the conditions relate to the distribution or public exhibition of the film to persons below specified ages or at specified places, a person commits an offence if the person distributes or publicly exhibits the film to an individual knowingly, negligently or recklessly in contravention of any such condition.

15 (1G) A person who commits an offence under subsection (1), (1A), (1B), (1D), (1E) or (1F) shall be guilty of an offence and shall be liable on conviction —

- 20 (a) in respect of an offence under subsection (1), (1A) or (1B), to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 6 months or to both; and
- 25 (b) in respect of an offence under subsection (1D), (1E) or (1F), to a fine not exceeding \$5,000.

30 (1H) In a prosecution for an offence for contravening subsection (1E) in relation to a distribution or public exhibition of a film to persons below a specified age in contravention of a condition in the classification certificate for that film, it is a defence for the defendant to prove, on a balance of probabilities, that at or before the time of the distribution or public exhibition, there was

produced to the defendant documentary evidence that might reasonably be accepted —

- (a) as applying to the person to whom the film was distributed or publicly exhibited; and
- 5 (b) as proving that the person was at least that specified age.”;
- (b) by deleting the words “Censor and any Deputy or Assistant Censor and any Inspector of Films” in subsection (2) and substituting the words “classification officer and any
- 10 licensing officer”;
- (c) by deleting the words “about to be exhibited” in subsection (2) and substituting the words “about to be publicly exhibited”;
- (d) by deleting subsection (4) and substituting the following
- 15 subsections:
 - “(4) A reference in this section to an unclassified film does not include a reference to an obscene film, a party political film or an exempt film.”; and
- (e) by deleting the section heading and substituting the following
- 20 section heading:

“Offences involving unclassified films, etc.”.

Repeal of sections 22, 23 and 24 and new sections 22 to 24A

13. Sections 22, 23 and 24 of the Films Act are repealed and the following sections substituted therefor:

25 **“Offences about advertisements for films**

22.—(1) A person must not publish an advertisement for a film that is distributed or publicly exhibited or intended for distribution or public exhibition if —

- (a) the advertisement —
- 30 (i) is disapproved under section 22A; or

- (ii) was approved under section 22A and the approval is then revoked under that section; and
- (b) the person knows or ought reasonably to have known that the advertisement —
- 5 (i) is disapproved under section 22A; or
- (ii) was approved under section 22A and the approval is then revoked under that section.
- (2) If an advertisement for a film is approved under section 22A, a person must not publish the advertisement in a form different from the form in which it was approved, if the person knows or ought reasonably to have known that the form of the advertisement is so altered.
- (3) If an advertisement for a film is approved under section 22A, and the advertisement is approved subject to conditions, a person must not publish the advertisement except in accordance with those conditions.
- (4) A person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.
- 20 (5) This section does not apply to or in relation to —
- (a) any advertisement for an imported film that is not distributed or publicly exhibited in Singapore;
- (b) an advertisement, in an imported film that is in a form that cannot be modified, for film that has not been distributed or publicly exhibited in Singapore (called the advertised film), whether or not that advertised film is later distributed or publicly exhibited in Singapore;
- 25 (c) advertising by way of a product —
- (i) that refers to, or is derived from, a film;
- 30 (ii) that is primarily intended to be distributed to the general public or to a section of the general public; and

- (iii) that a reasonable person would not consider to be a primary source of classification information for consumers about the film;
- (d) any advertisement for an exempt film;
- 5 (e) any trailer that is a classified film;
- (f) any other advertisement for a film excluded by the Minister by order in the *Gazette*.

Approval of advertisements for films

10 **22A.**—(1) Every advertisement for a film that is intended for distribution or public exhibition must be submitted to the Authority for approval.

(2) An application under subsection (1) for an advertisement for a film must —

- 15 (a) be made to the Authority in the form and manner the Authority determines; and
- (b) be accompanied by —
 - (i) a copy of the advertisement concerned;
 - (ii) the prescribed fee, if any;
 - (iii) such information as may be prescribed, if any; and
 - 20 (iv) such other information as the Authority may require in that particular case.

(3) On receipt of an application under subsection (2), the Authority —

- 25 (a) may approve the advertisement to which the application relates, with or without conditions; or
- (b) may refuse to approve the advertisement.

30 (4) The Authority is entitled to disapprove, or revoke any approval under this section for, an advertisement for a film if the film is a film which the Authority must refuse classification because of section 16.

(5) The Authority may revoke any approval under this section for an advertisement for a film if the film becomes unclassified or is re-classified.

Power to request information from licensees, etc.

5 **23.**—(1) The Authority, or a classification officer or licensing officer may, by written notice, require any licensee or other person (called a person of interest) to furnish, within a reasonable period and in the form and manner specified in the notice, all documents and information which —

10 (a) relate to any matter which the Authority considers necessary —

 (i) to ensure that the provisions of this Act and its subsidiary legislation, or any conditions imposed on a licence or classification certificate, are being
15 complied with; or

 (ii) to otherwise carry out the functions or duties of or assigned to the Authority by or under this Act; and

 (b) are within the knowledge of that licensee or person of interest, or in or under that licensee's or person's
20 custody or control.

(2) The power to require a licensee or person of interest to furnish any document or information under subsection (1) includes the power —

25 (a) to require that licensee or person of interest, or any individual who is or was an officer, agent or employee of the licensee or person of interest, to provide an explanation of the document or information;

30 (b) if the document or information is not furnished, to require the licensee or person of interest, or that individual mentioned in paragraph (a), to state, to the best of the knowledge and belief of that licensee, person or individual, where the document or information is; and

- (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Authority or classification officer or licensing officer (as the case may be) in legible form.

5 (3) In addition, a classification officer or licensing officer may —

- (a) at any reasonable time enter and inspect any premises specified in a licence or which are the subject of a class licence;
- 10 (b) examine any film or advertisement for a film found on those premises; or
- (c) take into or onto the premises any persons, equipment and materials the classification officer or licensing officer reasonably requires for exercising a power under this subsection.

15

(4) A person who, without reasonable excuse —

- (a) fails to do anything required of the person by notice under subsection (1); or
- (b) refuses access to premises mentioned in subsection (3),

20 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(5) A person —

- (a) who intentionally alters, suppresses or destroys any document or information which the person has been required by a notice under subsection (1) to furnish; or
- 25 (b) who, in furnishing any document or information required under subsection (1), makes any statement which the person knows or ought reasonably to know that, or is reckless as to whether, it is false or misleading in a material particular,

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shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) The Authority through a classification officer or licensing officer may, at any time after the expiry of the period specified in the notice mentioned in subsection (1), enter any building or place where the Authority has reason to believe that any document or information, in respect of which the Authority has given the notice, may be found, and seize or take extracts or copies of any such document or information.

(7) The Authority is entitled without payment to keep any document or information, or any copy or extract thereof, furnished to it under subsection (1), or seized or taken under subsection (6).

(8) To avoid doubt, for the purposes of subsection (4), it is a reasonable excuse for a person to refuse or fail to furnish any information, produce any book, document or record or answer any question if doing so might tend to incriminate that person.

(9) The references in this section —

- (a) to a licensee include a reference to every person who is a class licensee or who is registered as a film content assessor; and
- (b) to documents or information include a reference to any film (whether classified or not).

Powers of entry, search, etc., for enforcement purpose

23A.—(1) A police officer, or a classification officer or licensing officer, may do all or any of the following for an enforcement purpose:

- (a) in relation to any premises (whether or not specified in a licence or the subject of a class licence) —
 - (i) to enter and search, without warrant, the premises, and to search any equipment, vehicle or other thing at the premises;
 - (ii) to photograph or film, or make audio or video recordings or make sketches of, any part of the premises or anything at the premises;

- (iii) to detain any individual found within those premises until the search of the premises is complete;
- 5 (iv) to seize any film, advertisement for a film, equipment or material, if the officer knows or has reason to suspect that the film, advertisement, equipment or material is evidence of an offence under this Act or any of its subsidiary legislation;
- 10 (v) to inspect and make copies of, or take extracts from, (without fee or reward) any document kept at the premises; or
- 15 (vi) to take any document or any other thing at the premises, including asking any individual who is able to operate any equipment at the premises to do so for the purpose of enabling the police officer, classification officer or licensing officer (as the case may be) to ascertain whether the equipment, or a disk, tape or other storage device that can be used or associated with the equipment, contains
- 20 information that is relevant;
- (b) to require any person in Singapore whom the police officer, classification officer or licensing officer (as the case may be) has reason to believe to be acquainted with any facts or circumstances relevant to the carrying
- 25 out of the provisions of this Act to attend before the officer —
- (i) to answer a question to the best of that person's knowledge, information and belief, immediately or at such place and time specified in writing; or
- 30 (ii) to take reasonable steps to provide information or produce a document, immediately or at such place and time specified in writing,

whether before or after that person or anyone else is charged with an offence in connection with the matter, and whether or not that

person is to be called as a witness in any inquiry, trial or other proceeding in connection with the matter.

(2) The power to require a person to provide information or produce a document under subsection (1)(b) includes the power —

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(a) to require that person, or any person who is or was an officer or employee of that person, to provide an explanation of the document or information;

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(b) if the document or information is not furnished, to require that person to state, to the best of the person's knowledge and belief, where it is; and

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(c) if the information is recorded otherwise than in legible form, to require the information to be made available to the police officer, classification officer or licensing officer, as the case may be, in legible form.

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(3) Any person required to provide information or produce a document under subsection (1)(b) is bound to state truly what the person knows of the facts and circumstances concerning matters under this Act or any of its subsidiary legislation, except that the person need not say anything that might expose that person to a criminal charge or punishment.

(4) A statement made by any person asked under subsection (1)(b) must —

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(a) be reduced to writing;

(b) be read over to the person;

(c) if the person does not understand English, be interpreted for the person in a language that the person understands; and

(d) after correction, if necessary, be signed by that person.

30

(5) If entry to any premises mentioned in subsection (1) cannot be obtained, a police officer, classification officer or licensing officer may, where the officer has reasonable cause to believe

that evidence of the commission of an offence under this Act can be found on those premises —

(a) after declaring his office and after producing his identification card on demand being made; and

5 (b) with such force as is necessary to obtain entry,
break open any door or window leading to the premises, or remove by force any obstruction to such entry or search.

10 (6) If any person fails to comply with a written notice issued to the person under subsection (1)(b), the police officer, classification officer or licensing officer concerned may report the failure to a Magistrate who may then, in the Magistrate's discretion, issue a warrant ordering that person to comply with the written notice.

15 (7) Where any film, advertisement for a film, equipment or material has been seized under subsection (1)(a)(iv) (called in this section the seized item) —

20 (a) the police officer, classification officer or licensing officer who seized the seized item must immediately give notice in writing of the seizure to the person from whom the item was seized, if the name and address of that person are known; and

25 (b) in the absence of any claim under subsection (8) or pending the determination of any such claim, the seized item may be kept or stored in the premises or conveyance where it was seized or may, at the direction of a police officer, classification officer or licensing officer, be removed to any other place to be kept or stored at.

30 (8) Any person claiming a seized item may, within 48 hours after the seizure, complain about it to a Magistrate, who may determine the matter as follows:

(a) by confirming or disallowing the seizure in whole or part;

- 5 (b) by ordering that the seized item be restored to its owner, subject to such condition which the Magistrate may think fit to impose to ensure that the seized item is preserved for any purpose for which it may subsequently be required;
- (c) by ordering payment to be made to the owner of the seized item of such amount as the Magistrate considers will compensate the owner for any loss or depreciation resulting from the seizure.
- 10 (9) In this section, “enforcement purpose” means —
- (a) obtaining evidence of an offence under this Act or any of its subsidiary legislation where there is reasonable cause to believe that evidence of the commission of the offence can be found on those premises; or
- 15 (b) investigating any offence under this Act or any of its subsidiary legislation, or any contravention of or non-compliance with a provision of this Act or its subsidiary legislation.

20 **False information and obstruction of performance of official duties**

23B.—(1) If —

- 25 (a) a person furnishes a document, or makes a statement (whether orally, in writing or any other way) or gives information, to the Minister, the Authority, a police officer, a classification officer, a licensing officer or the Committee of Appeal;
- (b) the document, statement or information is false or misleading, or the statement or information omits any matter or thing without which the statement or information, as the case may be, is misleading;
- 30 (c) the person knows, or ought reasonably to know, that the document is false or misleading, or that the statement or information is as described in paragraph (b); and

- (d) the document is furnished, or the statement is made or the information is given, for or in connection with —
- (i) an application (whether for that person or for another) for a licence, a permit under section 12 or a renewal of such a licence or permit;
 - (ii) an application (whether for that person or for another) for approval under section 22A;
 - (iii) an application to register as a film content assessor under section 19, or to renew such registration;
 - (iv) a representation made under section 7(5) or 20B(3), or pursuant to a written notice under section 10A(5) or 11(3);
 - (v) a question or request of a police officer, classification officer or licensing officer under section 23A; or
 - (vi) an appeal under section 24 or 28,

the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Subsection (1) does not apply if the document, statement or information is not false or misleading in a material particular, or if the statement or information did not omit any matter or thing without which the statement or information, as the case may be, is misleading in a material particular.

(3) A person who refuses to give access to, or obstructs, hinders or delays the Authority, or any police officer, classification officer or licensing officer, in the discharge of its or his duties under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) However, it is not an offence under subsection (3) for a person to refuse to comply with any request, demand or order made or given by a police officer, classification officer or licensing officer who fails to declare the officer's office and

refuses to produce the officer's identification card on demand being made by that person.

Appeal against classification decisions

24.—(1) In this section and section 24A, an “appealable classification decision” means a decision by the Authority —

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(a) refusing to classify or re-classify a film under section 15 because —

(i) it is against national security; or

(ii) of any other ground in section 16;

10

(b) classifying or re-classifying a film under section 15;

(c) determining the consumer advice to apply to a film under section 18;

(d) imposing conditions under section 18 —

15

(i) about the display of the classification ratings, markings and consumer advice (if any) on any advertisement for a film or on the container, wrapping or casing of the film; or

(ii) relating to the circumstances of distribution or public exhibition of a film to which any classification certificate relates;

20

(e) revoking the classification of a film under section 17(2); or

(f) disapproving, or revoking the approval of, an advertisement for a film under section 22A, or imposing conditions on such an approval.

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(2) Any of the following persons who is aggrieved by an appealable classification decision relating to a film (each called an appellant) may appeal against the decision:

(a) the person who applied for the classification or re-classification of a film;

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- (b) the person who is the maker of a classified film if the applicant under section 14 for classification or re-classification of the film is not the maker;
- (c) the person who intends to distribute or public exhibit a film if the applicant under section 14 for classification or re-classification of the film is not that person;
- (d) the film content assessor whose classification of a film is revoked under section 15(2).

(3) For an appealable classification decision mentioned in subsection (1)(f), an applicant for approval of an advertisement for a film under section 22A who is aggrieved the decision relating to that advertisement (also called an appellant) may appeal against the decision.

(4) An appeal against an appealable classification decision described in subsection (1)(a)(i) may only be made —

- (a) to the Minister; and
- (b) within 30 days after the applicant is notified of that decision (called the first appeal period) or such longer period as the Minister allows in exceptional circumstances before the end of the first appeal period.

(5) An appeal against any other appealable classification decision described in subsection (1) may only be made —

- (a) to the Committee of Appeal; and
- (b) within —
 - (i) 30 days after the applicant is notified of an appealable decision (called the first appeal period) or such longer period as the Committee of Appeal allows in exceptional circumstances before the end of the first appeal period; or
 - (ii) for an appellant who is a film content assessor, 30 days after the notice of the film's re-classification is published pursuant to section 15(8)(b) (called the first appeal period) or such longer period as the

Committee of Appeal allows in exceptional circumstances before the end of the first appeal period.

5 (6) Every appeal under this section must be made in the manner prescribed or, if not prescribed, in the manner required by the Minister or Committee of Appeal, as the case may be.

(7) An appealable classification decision takes effect despite any appeal against the decision and remains in effect until the decision is varied or reversed on appeal.

10 **Minister’s decision on appeal against classification decisions**

24A.—(1) The Minister may determine an appeal against an appealable classification decision described in section 24(1)(a)(i) —

- 15 (a) by confirming the appealable classification decision; or
 (b) by reversing the refusal to classify the film in question and referring that film to the Authority for classification.

(2) The Minister’s decision under subsection (1) is final.

20 (3) Before making its decision under subsection (1) and for the purpose of forming an opinion on which to base such decision, the Minister —

- (a) must consult the Committee of Appeal; and
 (b) may consult any other person,

25 in respect of the film; but the Minister is not bound by any advice from the consultation.

(4) Where a film is referred under subsection (1) for classification, the appellant concerned must, for the purposes of section 15, be taken to have made an application under section 14 for classification of the film.”.

30 **Amendment of section 25**

14. Section 25 of the Films Act is amended —

(a) by deleting the words “15 members” in subsection (1) and substituting the words “at least 15 but not more than 21 members”;

5 (b) by deleting subsection (2) and substituting the following subsections:

“(2) Subject to subsections (2A) and (3), each member of the Committee of Appeal holds office for such period (but not exceeding 3 years) as the Minister may specify in the member’s letter of appointment.

10 (2A) The Minister may, at any time revoke the appointment of any member of the Committee of Appeal as the Minister considers necessary in the interest of the effective performance of the functions of the Committee of Appeal under this Act, or in the public interest.”;

15 (c) by deleting subsection (4) and substituting the following subsection:

“(4) If a premature vacancy occurs in the office of any member of the Committee of Appeal, the Minister may appoint a person to fill the vacancy and hold that office for the remainder of the term for which the vacating member was appointed; and “premature vacancy” means a vacancy that occurs in the office of a member of the Committee of Appeal otherwise than because of the expiry of the term of office.”; and

25 (d) by deleting subsection (7) and substituting the following subsections:

“(7) In addition to the Chairman’s general vote, the Chairman of the Committee of Appeal or member presiding at a meeting of the Committee has, in the case of an equality of votes, a casting vote.

30 (8) A quorum for a meeting of the Committee of Appeal is the number that is at least one-third the number of its members.

(9) All members of the Committee of Appeal are deemed to be public servants within the meaning of the Penal Code (Cap. 224).”.

Amendment of section 26

5 **15.** Section 26 of the Films Act is amended —

(a) by deleting subsections (1) and (2) and substituting the following subsections:

10 “(1) On receipt of an appeal under section 24, the Committee of Appeal may, after considering the matters mentioned in section 15(5), make an order —

(a) dismissing the appeal and confirming the decision of the Authority; or

(b) varying or reversing the decision of the Authority —

15 (i) by re-classifying the film;

(ii) by modifying the consumer advice in respect of a film; or

20 (iii) by modifying the conditions imposed under section 18(2) or (3) in relation to the classification certificate issued in respect of the film.

25 (2) The Committee of Appeal must deal with an appeal under section 24 in the same way that the Authority deals with an application for classification or re-classification of a film, and sections 15, 16 and 17 apply for this purpose as if references in each of those sections to the Authority were references to the Committee of Appeal.”; and

(b) by deleting subsection (4) and substituting the following subsection:

30 “(4) The Committee of Appeal must without delay communicate its decision on appeal to the Authority, and the Authority must, if necessary, issue a fresh classification certificate in respect of the film and take

such other action, if any, as is necessary to give effect to that decision.”.

Amendment of section 27

16. Section 27 of the Films Act is amended —

5 (a) by deleting the words “whether it has been approved for
exhibition or not for the purpose of considering whether the
film should or should not be so approved” in subsection (1)
and substituting the words “in respect of which the decision
or deemed decision by the Authority is refused classification
10 other than on the ground that it is against national security to
be classified, or any film classified or deemed classified or
re-classified by the Authority, for the purpose of considering
whether the film should or should not be classified, so
classified or be re-classified”;

15 (b) by deleting subsection (2) and substituting the following
subsections:

 “(2) For the purpose of exercising its power under
subsection (1) in respect of a film, the Committee of
Appeal may give an order in writing to —

20 (a) to a licensee or class licensee who is distributing
or publicly exhibiting the film;

 (b) to an applicant under section 14 for classification
of the film; or

 (c) a maker or other person in possession of the film
25 which is an unclassified film.

 (2A) An order under subsection (2) may require a person
given the order to do the following within a period
specified in the order:

30 (a) to provide or make available a copy of the film for
screening or demonstration before the Committee
of Appeal;

 (b) to demonstrate the film before the Committee of
Appeal;

- (c) in the case of a film that is designed for use wholly or principally as a video game, to provide to the Committee of Appeal recordings of the gameplay; or
- 5 (d) to provide such other information about the film that the Committee of Appeal may require in that particular case.”;
- (c) by deleting the words “owner who fails to comply with” in subsection (4) and substituting the words “person who, without reasonable excuse, fails to do anything required of the person by an order under”; and
- 10 (d) by inserting, immediately after subsection (4), the following subsection:
- 15 “(5) To avoid doubt, nothing in this sections limits the Authority’s powers under section 15.”.

Repeal and re-enactment of section 28 and new section 28A

17. Section 28 of the Films Act is repealed and the following sections substituted therefor:

“Appeal to Minister against other decisions of Authority

- 20 **28.**—(1) In this section, an “appealable decision” means a decision by the Authority —
- (a) refusing the grant of the licence under section 7;
- (b) taking regulatory action under section 11;
- (c) refusing to register, or to renew the registration of, an individual as a film content assessor under section 19;
- 25 or
- (d) taking regulatory action against a film content assessor under section 20B.
- (2) The following person who is aggrieved by an appealable decision in relation to that person (each called an appellant) may
- 30 appeal against the decision:

- (a) an applicant for a licence, for an appealable decision in subsection (1)(a);
 - (b) a former licensee, for an appealable decision in subsection (1)(b) which is revoking the licence;
 - 5 (c) a licensee, for any other appealable decision in subsection (1)(b);
 - (d) an applicant for a registration or renewal of the registration as a film content assessor, for an appealable decision in subsection (1)(c);
 - 10 (e) a film content assessor or former film content assessor affected by the appealable decision in subsection (1)(e).
- (3) An appeal under this section may only be made by an appellant —
- 15 (a) to the Minister in the manner prescribed or, if not prescribed, in the manner required by the Minister; and
 - (b) within 14 days after the appellant is notified of an appealable decision (called the first appeal period) or such longer period as the Minister allows in exceptional circumstances before the end of the first appeal period.
- 20 (4) The Minister may determine an appeal under this section by confirming, varying or reversing the decision of the Authority in subsection (1) that is the subject of the appeal; and the Minister's decision is final.
- (5) An appealable decision takes effect despite any appeal against the decision and remains in effect until the decision is varied or reversed on appeal.
- 25 (6) In any appeal under this section against any decision of the Authority in relation to the conviction of an appellant for an offence, the Minister may accept the appellant's conviction as
- 30 final and conclusive.

Disposal of unclaimed films

28A.—(1) Any film that is retained by the Authority under section 14(5) or deposited with the Authority under section

18(7), and is not claimed by the applicant for classification or re-classification of the film —

(a) within 6 months after the date of the Authority's decision under section 15; or

5 (b) if there is any appeal under section 24, within 6 months after the date of the decision of the Minister or the Committee of Appeal (as the case may be) on appeal, may be destroyed or otherwise disposed of as the Authority thinks fit.

10 (2) If —

(a) no prosecution is instituted with regard to any film, advertisement for a film, equipment or material which has been seized under section 23A(1); or

15 (b) no claim is made for that film, advertisement, equipment or material under section 23A(8),

the film, advertisement, equipment or material item is deemed to be forfeited.

20 (3) Where the owner of any item seized under the provisions of this Act consents to its disposal, the item is then deemed to be forfeited to the Government.

(4) Any item forfeited or deemed to be forfeited under this section must be delivered to the Authority or a classification officer, and may be disposed of in such manner as the Authority thinks fit.

25 (5) To avoid doubt, this section does not affect any powers conferred on a court by section 364 of the Criminal Procedure Code (Cap. 68).

Amendment of section 29

18. Section 29 of the Films Act is amended —

30 (a) by deleting the words “of not less than \$20,000 but not more than” in subsection (1)(a) and substituting the words “not exceeding”;

- (b) by deleting the words “of not less than \$40,000 but not more than” in subsection (1)(b) and substituting the words “not exceeding”;
- 5 (c) by deleting the words “of not less than \$1,000 for each such film imported (but not to exceed in the aggregate \$40,000)” in subsection (2)(a) and substituting the words “not exceeding \$40,000”;
- 10 (d) by deleting the words “of not less than \$2,000 for each such film imported (but not to exceed in the aggregate \$100,000)” in subsection (2)(b) and substituting the words “not exceeding \$100,000”;
- 15 (e) by deleting the words “of not less than \$2,000 for each such film he had distributed or in his possession (but not to exceed in the aggregate \$80,000)” in subsection (3)(a) and substituting the words “not exceeding \$80,000”;
- (f) by deleting the words “of not less than \$4,000 for each such film he had distributed or in his possession (but not to exceed in the aggregate \$100,000)” in subsection (3)(b) and substituting the words “not exceeding \$100,000”;
- 20 (g) by deleting the words “of not less than \$10,000 but not to more than \$40,000)” in subsection (4)(a) and substituting the words “not exceeding \$40,000”; and
- 25 (h) by deleting the words “of not less than \$20,000 but not more than” in subsection (4)(b) and substituting the words “not exceeding”.

Amendment of section 30

19. Section 30 of the Films Act is amended —

- 30 (a) by deleting the words “of not less than \$500 for each such film he had in his possession (but not to exceed in the aggregate \$20,000)” in subsection (1) and substituting the words “not exceeding \$20,000”;
- (b) by deleting the words “of \$1,000 for each such film in his possession (but not to exceed in the aggregate \$40,000)” in

subsection (2)(a) and substituting the words “not exceeding \$40,000”; and

- 5 (c) by deleting the words “of not less than \$2,000 for each such film in his possession (but not to exceed in the aggregate \$80,000)” in subsection (2)(b) and substituting the words “not exceeding \$80,000”.

Amendment of section 31

20. Section 31 of the Films Act is amended —

- 10 (a) by deleting the words “of not less than \$2,000 but not more than” in subsection (1) and substituting the words “not exceeding”;
- (b) by deleting the words “of not less than \$10,000 but not more than” in subsection (2)(a) and substituting the words “not exceeding”;
- 15 (c) by deleting the words “of not less than \$20,000 but not more than” in subsection (2)(b) and substituting the words “not exceeding”; and
- (d) by deleting the word “printed” in the definition of “advertising poster” in subsection (3).

20 Amendment of section 32

21. Section 32(1) of the Films Act is amended by deleting the words “of not less than \$20,000 but not more than” in paragraphs (a) and (b) and substituting in each case the words “not exceeding”.

Amendment of section 34

- 25 **22.** Section 34 of the Films Act is amended by deleting the words “any Censor, Deputy or Assistant Censor or Inspector of Films” in subsection (1) and substituting the words “any classification officer or licensing officer”.

Amendment of section 35

- 30 **23.** Section 35 of the Films Act is amended —

- (a) by inserting, immediately after the words “the possession” wherever they appear in subsections (1) and (2), the word “, exhibition”;
- 5 (b) by inserting, immediately after the words “or who” in subsection (2), the words “exhibits or”; and
- (c) by inserting, immediately after the word “possession” in the section heading, the word “, exhibition”.

Repeal and re-enactment of sections 36, 37 and 38 and new sections 38A and 38B

- 10 **24.** Sections 36, 37 and 38 of the Films Act are repealed and the following sections substituted therefor:

“Protection from personal liability

- 15 **36.** No liability shall lie personally against any member of the Committee of Appeal who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of this Act.

Service of documents

- 20 **37.—**(1) A document that is permitted or required by or under this Act to be served on a person may be served as described in this section.

(2) A document may be served on an individual —

- (a) by giving it to the individual personally;
- (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual’s residential address or business address;
- 25 (c) by leaving it at the individual’s residential address with an adult person apparently residing there, or at the individual’s business address with an adult person
- 30 apparently employed there;

- (d) by affixing a copy of the document in a conspicuous place at the individual's residential or business address;
- (e) by sending it by fax to the fax number given by the individual as the fax number for the service of documents under this Act; or
- (f) by sending it by email to the individual's email address.

(3) A document may be served on a partnership (other than a limited liability partnership) —

- (a) by giving it to any partner, secretary or other like officer of the partnership;
- (b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;
- (c) by sending it by fax to the fax number used at the partnership's business address; or
- (d) by sending it by email to the partnership's email address.

(4) A document may be served on a body corporate (including a limited liability partnership) or an unincorporated association —

- (a) by giving it to the secretary or other like officer of the body corporate or unincorporated association, or the limited liability partnership's manager;
- (b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore;
- (c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore; or
- (d) by sending it by email to the body corporate's or unincorporated association's email address.

(5) Service of a document on a person under this section takes effect —

- (a) if the document is sent by fax and a notification of successful transmission is received, on the day of the transmission;
- (b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person; and
- (c) if the document is sent by prepaid registered post, on the second day after the day the document was posted (even if it is returned undelivered).

(6) A document may be served on a person under this Act by email only with that person's prior written consent.

(7) This section does not apply to documents to be served in proceedings in court.

(8) In this section —

“business address” means —

- (a) in the case of an individual, the individual's usual or last known place of business in Singapore; and
- (b) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

“email address” means the last email address given by the addressee concerned as the email address for the service of documents under this Act;

“residential address” means an individual's usual or last known place of residence in Singapore.

Offences by corporations

38.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

- (a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

- 5 (a) who is —
- (i) an officer of the corporation; or
 - (ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and
- 10 (b) who —
- (i) consented or connived, or conspired with others, to effect the commission of the offence;
 - (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation;
 - (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,
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- 20

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

25 (3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

30 (4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(a) any person purporting to act in any such capacity; and

(b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.

(7) This section does not apply to or in relation to an offence under this Act or any of its subsidiary legislation committed by a corporation before the date of commencement of section 24 of the Films (Amendment) Act 2018.

Offences by unincorporated associations or partnerships

38A.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

(a) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the employee or agent had that state of mind,

5 is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

(a) who is —

10 (i) an officer of the unincorporated association or a member of its governing body;

(ii) a partner in the partnership; or

15 (iii) an individual involved in the management of the unincorporated association or the partnership and in a position to influence the conduct of that unincorporated association or that partnership in relation to the commission of the offence; and

(b) who —

20 (i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or the partnership;

25 (iii) knew or ought reasonably to have known that the offence by the unincorporated association or the partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

30

shall be guilty of that same offence as is the unincorporated association or the partnership, and shall be liable on conviction to be punished accordingly.

5 (3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or the partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof as that unincorporated association or that partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- 10 (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

15 (5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not that unincorporated association or that partnership is convicted of the offence.

(6) In this section —

20 “officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

- (a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and
- 25 (b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- 30 (b) the person’s reasons for the intention, opinion, belief or purpose.

(7) This section does not apply to or in relation to an offence under this Act or any of its subsidiary legislation committed by

a partnership or an unincorporated association before the date of commencement of section 24 of the Films (Amendment) Act 2018.

Composition of offences

5 **38B.**—(1) A classification officer or licensing officer who is authorised by the Authority for the purposes of this section may compound any offence under this Act prescribed as a compoundable offence, by collecting from a person reasonably suspected of having committed the offence a sum not
10 exceeding —

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$5,000,

whichever is the lower.

15 (2) On payment of the composition amount under subsection (1), no further proceedings may be taken against that person in respect of the offence.

(3) All sums collected under this section must be paid into the Consolidated Fund.”.

20 Repeal and re-enactment of section 40

25. Section 40 of the Films Act is repealed and the following section substituted therefor:

“Films exempt from Act

25 **40.**—(1) This Act does not apply to or in relation to any film that is made by or under the direction and control of the Government.

(2) The Minister may, by notification in the *Gazette* and subject to such conditions as the Minister thinks fit to specify in that notification, exempt from all or any of the provisions of this
30 Act —

(a) any person or class of persons;

- (b) any film or class of films; or
- (c) any advertisement for films or class of such advertisements.”.

Amendment of section 41

5 **26.** Section 41 of the Films Act is amended —

- (a) by deleting paragraph (b) of subsection (2) and substituting the following paragraph:

10 “(b) the duties of licensees in importing, distributing or publicly exhibiting films in the course of business;”;

- (b) by deleting the word “and” at the end of subsection (2)(d); and

15 (c) by deleting the full-stop at the end of paragraph (e) of subsection (2) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

 “(f) prescribe the manner in which classification labels, classification ratings and consumer advice (if any) are to be affixed to a film, displayed in any film, or displayed in an advertisement for a film;

20 (g) require the appointment by licensees of film content assessors registered under section 19;

 (h) prescribe the duties of persons registered as film content assessors in connection with the assessment of content of films;

25 (i) prescribe circumstances in which an assessment by a film content assessor is taken to be misleading, incorrect or grossly inadequate, or to contain misleading, incorrect or grossly inadequate information;

30 (j) provide for the manner in which an appeal may be made to the Minister or Committee of Appeal under section 24, and the procedure to be adopted in hearing such appeals;

- (k) provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$5,000 or with imprisonment for a term not exceeding 18 months or with both; and
- (l) provide for such transitional, saving and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient.”.

10 **Consequential amendment to Cinematograph Film Hire Duty Act**

27. The Cinematograph Film Hire Duty Act (Cap. 40) is amended

- 15 (a) by deleting the definition of “Chairman” in section 2 and substituting the following definition:
- ““Authority” means the Info-communications Media Development Authority established under the Info-communications Media Development Authority Act 2016 (Act 22 of 2016);”;
- 20 (b) by deleting the word “censorship” in section 4(1) and substituting the word “classification or re-classification”;
- (c) by deleting the words “approved for exhibition by the Chairman” in section 5(8) and substituting the words “classified or re-classified by the Authority under the Films Act (Cap. 107)”;
- 25 (d) by deleting the words “the Chairman” in section 5(9) and (10) and substituting the words “the Authority”.

Consequential amendment to Public Entertainments Act

30 28. Paragraph 1 of the First Schedule to the Public Entertainments Act (Cap. 257) is amended by deleting paragraph (d) of the definition of “film” and substituting the following paragraph:

“(d) any other form of recording from which a moving visual image, including a computer generated image, can be produced and viewed (together with its soundtrack);”.

Saving and transitional provisions

5 **29.**—(1) On the date of commencement of section 4, every person who, immediately before that date is a Censor of Films stops being one, but the operation of section 4 and this provision —

(a) does not constitute a retrenchment or redundancy; and

10 (b) does not entitle the person to any payment or other benefit merely because he or she stops being a Censor of Films.

(2) Every person who, immediately before the date of commencement of section 4, is appointed under the provisions of the Films Act as —

15 (a) a Deputy Censor or an Assistant Censor is deemed to be appointed as a classification officer under the Films Act as amended by this Act; and

(b) an Inspector of Films is deemed to be appointed as a licensing officer under the Films Act as amended by this Act,

20 and their respective appointments expire on the day their original appointments as a Deputy Censor or an Assistant Censor or Inspector of Films would have expired if this Act had not been enacted.

25 (3) Any person who, immediately before the date of commencement of section 7 imports, distributes or publicly exhibits any film in the course of business and is not a holder of a licence under section 6 of the Films Act, may, despite the Films Act as amended by this Act, continue to do so without a licence under section 6 of the Films Act as amended by this Act —

(a) until the end of a period of one month after the date of commencement of section 7; or

30 (b) if, within the period mentioned in paragraph (a), the person applies for a licence under section 6 of the Films Act as amended by this Act, until the earlier of the following dates:

- (i) the date on which the Authority grants the licence to the person;
- (ii) the date that the application for a licence is finally refused or is withdrawn.

5 (4) A certificate approving a film for exhibition that has been issued under section 15 of the Films Act before the date of commencement of section 11 continues and is deemed to be a classification certificate issued under the corresponding provision in the Films Act as amended by this Act.

10 (5) An advertisement for a film that has been approved or disapproved under section 22 of the Films Act before the date of commencement of section 13 is taken to have been approved or disapproved, respectively, under section 22 of the Films Act as amended by this Act.

15 (6) Any application under the provisions of the Films Act made to the Board of Film Censors before the date of commencement of section 11 or 13 —

- (a) for a licence;
- (b) for approval of an advertisement for a film; or

20 (c) for approval of a film for exhibition,

and which is pending immediately before that respective date is, where applicable, deemed to be an application under the Films Act as amended by this Act for a licence, for approval of an advertisement for the film, and for classification of the film, respectively, and may
25 be dealt with accordingly as if the application is made to the Authority under the corresponding provision in the Films Act as amended by this Act.

(7) This Act does not affect the continued operation or effect of any decision of the Board of Film Censors, the Committee of Appeal or
30 the Minister made under the Films Act before the date of commencement of section 11 or 13, and —

- (a) any such decision of the Board of Films Censors under section 15 of the Films Act is deemed to be a decision of the

IMDA under section 15 of the Films Act as amended by this Act;

5 (b) any such decision of the Board of Films Censors under section 22 of the Films Act is deemed to be a decision of the IMDA under section 22 of the Films Act as amended by this Act;

(c) any such decision of the Committee of Appeal on appeal —

10 (i) if a decision refusing classification for a film on the ground that it is against national security to be classified, is deemed to be a decision of the Minister under section 24A of the Films Act as amended by this Act;

15 (ii) if a decision refusing classification for a film on any other ground, is deemed to be a decision of the Committee of Appeal under section 24 of the Films Act as amended by this Act; or

(iii) is otherwise taken to be a decision made under section 24 of the Films Act as amended by this Act.

20 (8) Any right of appeal accrued before the date of commencement of section 13 in respect of any decision in subsection (7)(a) or (b) may continue to dealt with under the Films Act as amended by this Act.

25 (9) Where any appeal has been made to the Committee of Appeal under section 24 of the Films Act before the date of commencement of section 13 and the appeal has not been dealt with or disposed of immediately before that date, the appeal may be dealt with in accordance with the Films Act as amended by this Act.

30 (10) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may make regulations prescribing additional matters of a transitional nature (including prescribing any saving or application provisions) arising out of the commencement of that provision.

EXPLANATORY STATEMENT

This Bill seeks to amend the Films Act (Cap. 107) —

- (a) to dissolve the Board of Film Censors and transfer its functions under the Act to the Info-communications Media Development Authority (IMDA);
- (b) to amend the licensing framework of the Act to exclude private exhibition, and making and reproduction of films, and to regulate the import distribution and public exhibition of films in the course of business, whether or not that business is primarily connected with films;
- (c) to enable class licence schemes to be established for activities connected with certain types of films;
- (d) to address legislative anomalies that have arisen due to advances in technologies;
- (e) to enhance the administrative efficiency of the film classification system, including facilitating a co-classification scheme involving the industry;
- (f) to regulate through licensing the public exhibition in a place in Singapore of film content streamed digitally from any other place in or outside Singapore; and
- (g) to improve the clarity of certain provisions and enhance the enforcement powers for the effective administration of the Act.

The Bill also makes consequential amendments to the Cinematograph Film Hire Duty Act (Cap. 40) and the Public Entertainments Act (Cap. 257).

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title of the Act to reflect the shift from censorship towards classification of films.

Clause 3 amends section 2 by introducing new definitions and updating existing definitions in the Act to support the various amendments in the Bill.

First, all definitions relating to the Board of Film Censors are deleted as the functions of that Board will be transferred to the IMDA.

Various terms which are obsolete or are replaced by new terms in the amendments, are also repealed. The definitions for certificates approving films for exhibition are replaced by definitions for “classification certificate” and “classification label”. The definition of “approved warehouse” is deleted as the expression is no longer in use. Finally, instead of Censors of Films, which is the designation used in the Act today, the Bill introduces the definition of a “classification officer”.

Clause 3 also introduces a new definition of “film” to make it clear that the Act deals with physical items from which moving images (with or without an accompanying soundtrack) may be viewed. This is to address the uncertainty about the classification laws applying to material now commonly viewed on mobile phones and other mobile devices, and to online games.

A “film” is defined to mean a cinematograph film or video recording, a video game, or any other form of recording from which a moving visual image, including a computer generated image, can be produced (together with its soundtrack if there is one).

The definition of “video game” is expanded to ensure that products (called add-ons) which introduce new elements or additional levels into an existing video game when played in conjunction with that game are also video games. The existence of additional material in an add-on cannot affect the classification of the original game when played on its own. But when an add-on is played with a parent game a new version of the video game is effectively created. The new version may warrant a different classification or consumer advice from the original video game.

However, the definition of “video game” excludes a computer game that is stored on a mobile or storage device by reason only of being downloaded via a broadcasting service.

As consumers now have access to an increasing number and range of computer games on a variety of platforms including on mobile devices and other network services. The Act is not intended to cater for the classification of computer games which are downloaded by users. The intention is for the Act to regulate video games which exist in a physical medium and not games available for playing in Singapore via an internet download.

For example, there are computer games which are only available by means of a broadcasting service that is a computer online service and either can only be played on a mobile device or other device onto which it has been installed, or can only be played while the player is using an broadcasting service that enable end users to access the Internet. As for computer games that have a substantially similar online and offline edition, the offline editions will require classification before being sold or otherwise made available to the public.

The definition of the term “mobile device” is a non-exhaustive one and is capable of including a range of different wireless devices which are designed to run on a mobile operating system. Examples of mobile devices are smart phones, personal digital assistants (PDA), handheld game consoles, tablet computers and netbooks.

A “trailer” is in turn defined to mean a cinematograph film or video recording that contains selected extracts or images from, or part of, the film and is used for, or prepared for the purpose of, giving publicity to the film.

The second most important definition concerning the scope of the Act in clause 3 is that of an “advertisement” for a film. This excludes trailers for a film as these contain moving images. An “advertisement” for a film is defined to refer to advertising in static form, such as flags, posters, photographs and sketches.

Catalogues and price lists, website advertisements and an advertisement about a film appearing on an item of clothing or apparel are, however, excluded from the definition of “advertisement”.

The Act presently regulates a range of activities dealing in films. The Bill contains amendments to clarify what these activities are. Clause 3 introduces 2 major definitions to this end, namely “distribute”, and “publicly exhibit”.

To distribute is defined to encompass selling, supplying or letting on hire to a person in Singapore, offering or agreeing to sell, supply or let for hire to a person in Singapore, and causing or permitting to be sold or supplied to or hired by a person in Singapore and exchanging or supplying to a person in Singapore under or in connection with a commercial arrangement.

In addition, to distribute includes enabling or assisting an exchange or supply to a person in Singapore under such commercial arrangement, even though the exchange or supply is not, by itself, a commercial arrangement. For example, if a person, for profit, establishes or maintains, or participates in the establishment or maintenance, of a club, association or business for the exchange of films by other persons (whether or not the exchange is for profit by them). This can include providing services assisting the exchange in return for payment of club membership or other fees, or allowing entrance, on payment of a fee, to premises where exchanges may take place.

Finally, display or invitation to treat for any of the earlier mentioned acts is also defined to come within the meaning of distribution.

All the above acts must not be done using a broadcasting service, so as to avoid an overlap with the Broadcasting Act (Cap. 28). Whatever electronic transmission that the definition of “broadcasting service” in the Broadcasting Act does not encompass will come within definition of “distribute” in the Act as amended.

The “supply” of a film is in turn defined to include supplying the contents of the film by electronic transmission, offering or giving the film as a prize in any lottery, raffle, draw, game or competition, and offering or giving away the film for the purpose of advertisement or in furtherance of any business.

The new section 2(4) provides that the Act will extend to apply to an electronic transmission which emanates outside Singapore if the computer, server or mobile device that is used to access the communication is located in Singapore, or the recipient of the communication is an individual who is physically present in Singapore when the transmission is sent or is an entity whose central management and control is in Singapore when the electronic transmission is sent.

The Act will also apply to an electronic transmission the sender of which is an individual who is physically present in Singapore when the electronic transmission is sent, or an entity whose central management and control is in Singapore when the electronic transmission is sent, unless none of the recipients of the transmission is an individual who is physically present in Singapore when the transmission is sent or is an entity whose central management and control is in Singapore when the electronic transmission is sent.

The act of exhibiting a film is defined separately depending on whether the film is or is not a video game. For a film that is not a video game, to exhibit means to display, screen or project the film. This can be done directly or through the use of real-time transmission, where the film may be elsewhere but its contents are streamed and shown in another place.

For a film that is a video game, it is exhibited when it is demonstrated or displayed. However, any demonstration or display which constitutes public entertainment under the Public Entertainments Act (Cap. 257) is excluded.

The term “exhibit” is also expanded to include showing to any other individual content (but not live content) comprising wholly or in part moving images received on a computer monitor, television screen, mobile device or similar medium equipment appropriate for receiving that content, where the delivery of the content is by broadcasting service, telecommunications or other electronic transmission (such as real-time transmission). That content comprising wholly or in part moving images received is deemed to be a film.

To “publicly exhibit” a film that is not a video game, or an advertisement for a film, is defined in clause 3 to mean to exhibit the film or advertisement in a public place or so that it can be seen from a public place.

For a video game, “publicly exhibit” means to demonstrate the video game in a public place or so that it can be seen from a public place.

Clause 3 also introduces new section 2(4) and (5) to the Act, which provides when a person is taken to publicly exhibit a film.

If the film is not a video game, the person who arranges or conducts the exhibition of the film in a public place or so that it can be seen from a public place (which may include using real time transmission to display, screen or project in a public place, or so that it can be seen from a public place, any film elsewhere in or outside Singapore) is taken to be the person publicly exhibiting the film. Alternatively, if the person has the superintendence or management of the public place in which the film or advertisement is exhibited, the person is also taken to be publicly exhibiting the film.

For a video game, a person is taken to publicly exhibit a film that is a video game if the person arranges or conducts the demonstration of the video game, in a cinema, theatre or similar public place, or has the superintendence or management of the public place in which the video game is demonstrated.

Clause 4 repeals and re-enacts sections 3 and 4 for the purpose of dissolving the Board of Film Censors and transferring the functions of the Board of Film Censors to the IMDA.

The new section 3 vests in the IMDA the function of exercising the licensing and classification functions with respect to films, and to otherwise enforce and administer the Act.

Clause 4 provides for the appointment by the IMDA, from among its officers, 2 types of enforcement staff for the administration of the Act. They are classification officers and licensing officers, respectively. Classification officers and licensing officers replace Censors and Inspectors of Films in the present Act.

Clause 5 amends section 4A (on advisory committees) as a consequence of the transfer of functions from the Board of Film Censors to the IMDA.

Clause 6 amends section 5 (relating to delegation of powers) to enable the IMDA to delegate to any classification officer or licensing officer, either generally or in a particular case and subject to such conditions or limitations as the IMDA may specify, all or any of the powers conferred and duties imposed upon the IMDA by the Act. However, the IMDA cannot delegate its power of delegation under section 5. This makes clear that the power to delegate is non-delegable for the purposes of section 38 of the Info-communications Media Development Authority Act 2016.

Clause 7 repeals and re-enacts section 6 so that the requirement for a licence extends beyond persons who are in the business of making films, importing films, distributing films or exhibiting films. Under the new section 6, a licence will be required to import, distribute or publicly exhibit a film in the course of business. The business need not be primarily connected with films.

The new section 6 makes it an offence for a person to import, distribute or publicly exhibit a film in the course of business, unless the person is authorised to do so by a licence.

The business need not be one that is primarily concerned with the import, distribution or public exhibition of films. A business is defined broadly in section 2 (see clause 3) and includes any business in Singapore, whether or not carried on for profit and whether or not its primary function is connected with films.

The definitions of “distribute”, “exhibit” and “publicly exhibit”, and the description of persons taken to be publicly exhibiting a film are set out in the amendments in clause 3.

In particular, by reason of the description of persons taken to be publicly exhibiting a film in the new section 2(4) read with that for “exhibit”, where a film is transmitted digitally (including via the Internet) for public exhibition at a venue in Singapore, the organiser of the public film exhibition at a venue in Singapore will be the party that must take out the licence.

The penalty for conducting any such business without a licence is a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part of a day during which the offence continues after conviction. The minimum fine in the present Act is removed but a penalty for a continuing offence is introduced.

Finally, under the new section 6, making films (whether or not in the course of business) is no longer a licensable activity.

Clause 8 amends section 7 to introduce greater administrative flexibility in the processes for licence applications and grant of licences by the IMDA.

The amendments in clause 8 also empower the IMDA, at any time, to add to the conditions, or vary or revoke any condition, of a licence after giving the licensee concerned notice in writing of its intention to do so, and an opportunity to be heard as to why the condition should not be added to, varied or revoked.

Clause 9 amends section 8 to clarify the purpose of the power to ask licence applicants to provide security. The amendment provides that the IMDA may, before granting a licence, require an applicant for the licence to give a performance bond, guarantee or other form of security, on terms and conditions and of such amount as the IMDA considers appropriate, to ensure that the provisions of the Act and the conditions of the licence will be duly observed.

The existing provisions on forfeiture of security and appeal against forfeiture are repealed and transferred to new sections 11 and 27.

Clause 10 makes a minor amendment to section 10 as a consequence of transferring the administration of the Act to the IMDA.

Clause 11 repeals sections 11 to 20 of the Act and re-enacts sections 10A to 18 to deal with the revocation and suspension of licences by the IMDA, to abolish approved warehousing requirements for imported films, and improve the film classification process, and introduces new sections 19, 20, 20A to 20C relating to film content assessors.

Clause 11 first introduces a new section 10A which provides for a system of class licences to be established by the IMDA to regulate part of the activities mentioned in section 6, where a lighter regulatory approach is appropriate.

A class licence mechanism operates by authorising a range of activities without requiring each importer, distributor or exhibitor to apply for and obtain an individual licence. The class licence can authorise the import, distribution or public exhibition of a film of a specified kind in the course of any business, or a film in the course of a specified business, or the import, distribution or public exhibition of a film of a specified kind in the course of a specified business. For example, a class licence may be established for the distribution of video games in physical form.

Under the new section 10A, a class licence established by the IMDA must be by an order in the *Gazette*. The conditions of the class licence must be set out in that order. The IMDA can revoke or vary the order from time to time ordinarily after giving a reasonable opportunity to be heard to persons (especially class licensees) who may be affected by the proposed revocation or variation.

The import, distribution or public exhibition of a film by any person to which the class licence order applies is deemed authorised by a licence if it is done in accordance with the conditions of the class licence.

The new section 11 enhances the range of regulatory action that may be taken against licensees. Under the new section, the IMDA is empowered (without compensation) to revoke a licence or disapply a class licence with respect to a particular class licensee. The revocation of a licence can be ordered with or without the IMDA forfeiting any security furnished by the licensee under section 8 of the Act.

In lieu of such revocation or disapplication, the IMDA may suspend the licence or application of the class licence for a period not exceeding 6 months.

Other regulatory actions against a licensee (but not a class licensee) in lieu of licence revocation include removing from the licence any place specified in the licence at which the licensee is authorised to import, distribute, or publicly exhibit a film, imposing further conditions on the licence, or modifying the conditions of the licence, or requiring the licensee to furnish additional security or forfeiting the whole or part of any security already furnished.

The grounds for taking regulatory action are if IMDA is satisfied that the licensee or class licensee (as the case may be) is contravening or has contravened any condition of its licence or class licence, or has been convicted of any offence under the Act or its subsidiary legislation. Other grounds for regulatory action include a licence that has been obtained by fraud or misrepresentation, where a licensee or class licensee is carrying on or has carried on the business of importing, reproducing, distributing or publicly exhibiting films in a manner that is or is likely to be detrimental to the interests of the public, or the licensee's or class licensee's customers or the public interest or national security of Singapore so requires.

Regulatory action may be taken without compensation but only after an opportunity of being heard has been given to the licensee or class licensee against which the IMDA intends to exercise its powers under the new section 11.

New section 12 is a re-enactment of the present section 13, which imposes a requirement for a permit from the IMDA before an imported film may be removed from its place of arrival in Singapore. However, the requirement for an imported film to be deposited in an approved warehouse is abolished in new section 12.

New section 13 requires the Minister to specify, by legislative instrument in the *Gazette*, the different types of classifications for films, the ratings for each

type of classification giving information about the classification (called classification ratings) and the markings for each classification rating, and the manner in which the classification ratings are to be displayed in any advertisement relating to the film to which the classification relates and on the container, wrapping or casing of the film. This assures greater certainty and transparency in film categories.

Different types of classification ratings may be prescribed by the Minister for different types of films. Where the classification states that a film is fit for viewing by any member of the public of any age, that will be the lowest classification.

New section 14 deals with applications for classification or re-classification of films and the processes involved, such as screening or demonstration before the IMDA of films to be classified. The IMDA is entitled to refuse an application if the application is not made in the manner required.

New section 15 deals with the classification and re-classification of films by the IMDA. Films will no longer just be approved for exhibition.

The IMDA is to classify or re-classify films on an application being made to it under the new section 14.

In addition, the IMDA may on its own initiative call in classified films for re-classification. This can include calling in films that have been assessed by individuals who are registered film content assessors and whose classification is deemed a decision of the IMDA under the new section 20(1). For example, changes in IMDA's own classification guidelines may provide occasion for the IMDA to calling in for re-classification films the content of which are affected by those changes, instead of waiting for an application to be made.

For the purpose of calling in a classified film to make any re-classification decision, the IMDA is conferred power to require, by direction in writing, a licensee or class licensee who is distributing or publicly exhibiting the classified film, to submit an application under section 14 for re-classification of that film. Non-compliance with the direction is an offence and upon conviction, entitles the IMDA to take regulatory action against the licensee or class licensee concerned under the new section 11.

The IMDA is required to classify and re-classify films having regard to the standards of morality, decency and propriety generally accepted by reasonable adults in Singapore, the literary, artistic or educational merit (if any) of the film, the general character of the film, including whether it is of medical, legal or scientific character, and the person or class of persons to or amongst whom the film is published or is intended or likely to be published. These criteria are not exhaustive.

Upon receipt of an application for classification or re-classification, the IMDA has various options. If it is of the opinion that the film is suitable for distribution or public exhibition, the IMDA must classify the film. But if it is of the opinion

that the film is wholly not suitable for distribution or public exhibition, or is a film that comes within the new section 16, the IMDA must refuse to classify or re-classify the film and state its reasons for that opinion.

The IMDA is allowed to consult the relevant advisory committee and other persons before deciding to classify or re-classify. In classifying or re-classifying any film, the IMDA may also determine the consumer advice giving information about the content of the film.

As soon as practicable, but not later than 14 days, after a decision classifying or re-classifying a film is made, the IMDA must inform the applicant (if any) for classification or re-classification of the film of its decision and, in the case of re-classification of a film (whether on the initiative of Authority or on application), the IMDA must publish on the IMDA's official website and in one or more other forms that are readily accessible by the public, notice of the film's re-classification.

New section 16 sets out the films in respect of which classification must be refused. These involve films that are either obscene films, party political films, a film that is prohibited under section 35(1) of the Act or is otherwise against national security to be classified. It is also possible for the Minister to prescribe by regulations certain material which, if contained in a film, will entitle refusal to classify the film.

New section 16 binds the IMDA, the Committee of Appeal and an individual who is registered as a film content assessor, who are each conferred power by the Act to classify films.

New section 17 deals with the circumstances where a classification certificate can be revoked or is deemed revoked. If a classified film is modified, the film becomes unclassified when the modification is made, and the classification of the film is deemed to be revoked. Exceptions are provided for modifications that do not affect the classification rating.

Hence, any alteration or addition to a classified film (which is not within the exceptions) will give rise to another film, which is unclassified. The classification certificate for the original film cannot be used for the modified film as the certificate will be treated as having been revoked. The modified film will require classification and a fresh classification certificate before it can be distributed or publicly exhibited.

The IMDA may also revoke any classification of a film if it is of the opinion that the film contains contentious material that was not brought to the IMDA's attention before the classification was made, and if the IMDA had been aware of the material before the classification was made, it would have given the film a different classification.

Where a classification certificate in respect of a film is revoked, the revocation applies in respect of every copy of that film as it applies to that film.

Clause 18 makes it a duty for the IMDA to issue classification certificates and make available classification labels for each film that it classifies or re-classifies under section 15 or the Committee of Appeal re-classifies under section 26 or 27. The classification labels must be made available (whether for purchase or free) and be in the form enabling it to be affixed to the film or the container, wrapping, casing, box or other thing in or with which the film is to be distributed.

Every classification certificate issued in respect of a film must specify the classification ratings for the classification given to the film, any consumer advice for the film as well as the conditions about the display of the classification ratings and consumer advice (if any) on any advertisement of the film and on the container, wrapping or casing of the film. The IMDA may also impose in relation to a classification certificate such conditions as it thinks fit relating to the circumstances of exhibition or distribution of the film to which that certificate relates.

A classification certificate that is issued and in force in respect of a film will apply to each copy of the film that is identical in content with it as if that copy were that film. Hence, any alteration or addition to a classified film will give rise to another film, which will require a fresh classification certificate before it can be distributed or publicly exhibited.

New section 19 provides for the registration of individuals as film content assessors, to implement a co-classification scheme by the industry.

A registered film content assessor is authorised to classify films, no higher than a classification rating that is prescribed in the regulations (called the maximum permitted classification rating). A registered film content assessor must also submit to the IMDA a report of his or her assessment of a film and the classification rating assigned to the film.

The qualifications required for registration as a film content assessor will be fixed by the Authority; no regulations will be made for these matters.

An unregistered individual must not undertake (whether or not for reward) any work that a registered film content assessor is authorised to do, and must not advertise or hold himself or herself out, or describe himself or herself in any way, to be a film content assessor. A contravention of this rule is an offence which carries a penalty of a fine not exceeding \$5,000.

However, new section 20(2) places limits on what a registered film content assessor can do when viewing or assessing the content of a film. The registered film content assessor must not assess or classify a film if it contains contentious material, or the film would, if classified by the IMDA, be substantially likely to be classified higher than the maximum permitted classification rating.

Finally, new section 20(1) provides that where a film is not classified by the IMDA or the Committee of Appeal, and a registered film content assessor assigns a classification rating for the film, the film content assessor's decision is taken to

be a decision of the IMDA to classify the film. This deeming provision will enable the IMDA, where the occasion presents itself, to review the classification by the registered film content assessor and, using the IMDA's powers under section 15 (2), re-classify the film if necessary.

New section 20A provides the procedure for registering as a film content assessor.

New section 20B sets out the regulatory action that may be taken against an individual who is registered as a film content assessor. In addition to cancelling registration, the IMDA may in lieu suspend registration for up to 6 months or impose a financial penalty of up to \$5,000.

New section 20C requires the IMDA to keep and maintain a register of individuals registered as film content assessors.

Clause 12 amends section 21 to prescribe various offences relating to unclassified films which are neither party political films nor obscene films, and to classified films. Offences involving obscene films and party political films are covered in other sections in the Act.

A person commits an offence if the person distributes or publicly exhibits a film that is not a classified film, or has in the person's possession a film that is not a classified film, with the intention of distributing or publicly exhibiting the film; and the person knows or ought reasonably to have known that, or is reckless as to whether, the film is not a classified film.

A person commits an offence if the person distributes or publicly exhibits a film with a title that is not the same as the title under which the film is classified, and the person knows or ought reasonably to have known that, or is reckless as to whether, the film's title is not the same as the title under which the it is classified. A person commits an offence if the person distributes or publicly exhibits a film with contents that is not the same as that in which it is classified, and he person knows or ought reasonably to have known that, or is reckless as to whether, the film's contents are not the same as that in which it is classified.

However, an exception is made for a film the contents of which only contain a modification mentioned in new section 17(3). This refers to the addition or removal of navigation functions (such as but not limited to an interactive menu), and modifications that are prescribed as not likely to result in the film being given a higher classification, such as a translation of the audio or visual content of the film that would not be likely to cause the film to be given a higher classification rating.

A person commits an offence if the person distributes a classified film without a classification label made available under section 18 for that film affixed to the film, affixed with a classification label showing a classification rating otherwise than in accordance with the classification assigned to that film under this Act, or affixed otherwise than in accordance with the manner prescribed, with a

classification label made available under section 18 in respect of that film, and the person has the relevant mental element for the offence. This refers to a person who knows or ought reasonably to have known that, or is reckless as to whether no classification label made available under section 18 for that film is affixed to the film; a classification label showing a classification rating otherwise than in accordance with the classification assigned to that film under this Act is affixed to the film, or a classification label made available under section 18 in respect of that film is affixed otherwise than in accordance with the manner prescribed,

A person also must not distribute a classified film if the film, or the container, wrapping, casing, box or other thing in which the film is distributed is affixed with a classification label showing a classification rating that indicates or suggests that the film has a different classification rating.

To protect underaged persons, where conditions have been imposed on the classification certificate for a film in relation to the distribution or public exhibition of the film to persons below specified ages or at specified places, it is an offence for a person to knowingly, negligently or recklessly distribute or publicly exhibit the film in contravention of such a condition.

Where conditions have been imposed in relation to the classification certificate issued in respect of a film relating to the exhibition or distribution of the film to persons below specified ages or at specified places, it will be unlawful to knowingly, negligently or recklessly exhibit or distribute the film in contravention of any such condition. In addition, no person is permitted to distribute a film unless the classification ratings relevant to the classification of the film and the relevant consumer advice, if any, are displayed on the container, wrapping or casing of the film. It is also unlawful to distribute a classified film if the container, wrapping or casing of the film in which the film is distributed bears a rating that indicates or suggests that the film has a different classification. The penalty prescribed is a fine not exceeding \$5,000.

Clause 13 repeals sections 22, 23 and 24 and introduces new sections 22, 22A, 23, 23A, 23B, 24 and 24A to set out a more comprehensive process for the approval by the IMDA of film advertisements, to enhance enforcement powers vested in classification officers and licensing officers and to deal with appeals against classification decisions by the IMDA.

Section 22 (relating to advertisements for films) is repealed by clause 13 and replaced by a new section 22 that sets out offences concerned with advertisements for films, and a new section 22A for the approval of advertisements for films.

Under the new section 22, it is an offence for a person to publish an advertisement for a film if the advertisement is disapproved under new section 22A, or which approval is revoked, and the person knew or ought reasonably to have known that the advertisement is not an approved one.

If an advertisement for a film is approved under section 22A, it is an offence if a person publishes the advertisement in an altered form to the form in which it is approved, and the person knew or ought reasonably to have known that the form of the advertisement is so altered.

Where an advertisement for a film is approved under section 22A subject to conditions, it is also an offence if a person publishes the advertisement not in accordance with those conditions.

The punishment for a person committing any of the above offences is a fine not exceeding \$5,000.

New section 22 does exclude certain advertisements for films. There are many imported publications that contain advertisement for films that are never distributed or publicly exhibited in Singapore.

There are also cases where advertisements for a film that has not been distributed or publicly exhibited in Singapore which are contained in an imported film in a form that cannot be modified, such as in a video tape. As the physical form of the film will not change, this exclusion will continue even if the film or computer game that is advertised is subsequently published in Singapore.

Product merchandising, such as caps, toys, drink bottles and similar products carrying logos or characters derived from films or computer games, would not reasonably be considered a primary source of classification information for consumers. As section 22 is intended to ensure that consumers have adequate information from advertisements to make informed entertainment choices for themselves and their families, such products and character merchandising products are also excluded from the meaning of advertisement for a film.

The Minister is conferred further given power to expand the list of excluded advertisements for films by an order in the *Gazette*.

The new section 22A empowers the IMDA to approve or refuse approval of advertisements for films that require approval under the new section 22.

New section 23 confers a new power of information-gathering on IMDA employees who are classification officers or licensing officers.

The IMDA, or a classification officer or licensing officer may, by written notice, require any licensee or person of interest to furnish, within a reasonable period and in the form and manner specified in the notice, all documents and information which are necessary to the IMDA to ensure that the provisions of the Act and its subsidiary legislation, or any conditions imposed on a licence or classification certificate, are being complied with, and to otherwise carry out the functions or duties of or assigned to the IMDA by or under any provision of the Act.

In addition, a classification officer or licensing officer is given power at any reasonable time, to enter and inspect any premises specified in a licence or which

are the subject of a class licence, and examine any film or advertisement for a film found on the premises. It is an offence for a person who, without reasonable excuse, fails to do anything required of the person by the written notice under the new section 23 or refuses access to premises. The punishment is a fine not exceeding \$10,000.

To deal with false or misleading information being given, it is also an offence if a person intentionally alters, suppresses or destroys any document or information which the person has been required by the written notice under the new section 23 to furnish, or who, in furnishing any document or information, makes any statement which the person knows to be false in a material particular or recklessly makes such a statement. The punishment is a fine not exceeding \$10,000 or imprisonment for a term not exceeding 12 months or both.

The new section 23 also provides that the IMDA may, through a classification officer or licensing officer, at any time after the expiry of the period specified in the written notice requiring the documents or information to be furnished, enter any building or place where the IMDA has reason to believe that any document or information, in respect of which it has given the notice, may be found, and seize or take extracts or copies of any such document or information.

A person is excused from not giving any documents or information requested because the giving of the documents or information might tend to incriminate the person or expose the person to a criminal penalty or charge.

The new section 23A confers powers of entry, search and seizure on police officers, classification officers and licensing officers for an enforcement purpose. An enforcement purpose is defined to mean obtaining evidence of an offence under the Act or any of its subsidiary legislation where there is reasonable cause to believe that evidence of the commission of the offence can be found on those premises, or investigating any offence under this Act or any of its subsidiary legislation, or any contravention of or non-compliance with a provision of the Act or its subsidiary legislation.

The new section 23B provides for the offences of providing false information and obstructing IMDA officers in the performance of their official duties under the Act or its subsidiary legislation.

Finally, clause 13 repeals and re-enacts section 24, which confers a right of appeal to a Committee of Appeal against the IMDA's decisions on classification of films and approval of advertisements relating to films.

Under the new section 24, decisions like refusing to re-classify a film, classifying or re-classifying a film, determining the consumer advice to apply to a film, imposing conditions on a classification certificate, or revoking a classification for a film assigned by a registered film content assessor are otherwise appealable.

There are 2 appellate authorities for classification decisions. For a refusal to classify because of national security, the appeal may be made only to the Minister. Appeals against other appealable classification decisions may be made to the Committee of Appeal.

An appeal against an IMDA appealable classification decision must be made by the appellant within 30 days after being notified of the IMDA's decision. However, the Minister and the Committee of Appeal may in any particular case extend the time for making an appeal to it under this section.

Every appeal must be made in the manner prescribed by regulations made under section 41 where the procedure is prescribed. Otherwise, the procedure is to be fixed by the appellate authority.

The new section 24 also makes clear that every appealable classification decision takes effect despite any appeal against the decision and remains in effect until the decision is varied or reversed on appeal. An exception is made for transitional cases in clause 29.

Finally, the requirement in existing section 24 to pay an additional deposit for an appeal is abolished.

Clause 13 further introduces a new section 24A to deal with appeals to the Minister against a decision of the IMDA refusing to classify or re-classify a film on the ground of national security. The Minister may either confirm the IMDA's decision or reverse the decision. If the Minister reverses the IMDA decision, the Minister has to then refer the film in question to the IMDA for classification. The Minister's decision is final; there is no further appeal.

Clause 14 amends section 25 to modify the composition of the Committee of Appeal.

First, the composition of members of the Committee of Appeal is no longer fixed at 15. The amendments provide for a minimum of 15 members and a maximum number of 21 members (inclusive of the chairperson). Their term of office is for such period fixed by the Minister (but in no case exceeding 3 years). The Minister may at any time revoke the appointment of any member the Committee of Appeal if the Minister considers it necessary in the interest of the effective performance of the functions of the Committee of Appeal under the Act, or in the public interest.

A quorum for a meeting of the Committee of Appeal is the number that is at least one-third the number of its members. All members of the Committee of Appeal are also deemed to be public servants within the meaning of the Penal Code (Cap. 224).

Clause 15 amends section 26 relating to the procedure of handling appeals to the Committee of Appeal against the IMDA's decisions relating to classification of films.

On receipt of such an appeal, the Committee of Appeal may, dismiss the appeal and confirm the decision of the IMDA, or vary the decision of the IMDA. This includes classifying or re-classifying a film, or revoking the classification of the film and modifying the conditions in relation to the classification certificate issued in respect of the film. The Committee of Appeal has to deal with such an appeal in the same way that the IMDA deals with an application for classification of a film or an application for approval of an advertisement for a film, as the case may be, and is conferred the same powers as the IMDA to do this. The decision of the Committee of Appeal is final.

Clause 15 also abolishes the provision allowing the Committee of Appeal to require the payment of further fees for frivolous or vexatious appeals.

Clause 16 amends section 17, which confers power on the Minister to order the Committee of Appeal to review the classification of any film. The amendments confine the power of the Committee of Appeal to review only to decisions made by the IMDA.

Clause 17 replaces section 28 and introduces a new section 28A.

New section 28 sets out a right of appeal to the Minister against any decisions of the IMDA that are not in the way of classification or re-classification of films. The Minister's decision on appeal is final.

The appellants may be an applicant for a licence who is refused the grant of the licence by the IMDA, a former holder of a licence revoked by the IMDA or a licensee or class licensee against whom the IMDA has taken regulatory action. Other appellants include an individual whose application to be registered as a film content assessor, or whose renewal of registration as such, is refused by the IMDA or a film content assessor or former film content assessor against whom the IMDA took regulatory action.

An appeal under new section 28 must be made by the appellant within 14 days after being notified of the IMDA's decision. However, the Minister may in any particular case extend the time for making an appeal to it under this section.

Every appeal under new section 28 must be made in the manner prescribed by regulations made under section 41 where the procedure is prescribed. Otherwise, the procedure is to be fixed by the Minister.

The new section 28A expands the present provisions on disposal of films. The new section 28A provides that any film that is retained by the IMDA and not claimed by the owner thereof within a period of 6 months after the date of the IMDA's classification or, if there is any appeal, the date of the decision of the Committee of Appeal, may be destroyed or otherwise disposed of as the IMDA thinks fit.

The new section 28A also provides for the forfeiture and disposal of films, advertisements, equipment and material that may be seized in the exercise of enforcement powers but no prosecution is proceeded with. The provision does not

need to deal with disposal of films in respect of which a prosecution is instituted because that is covered by the Criminal Procedure Code (Cap. 68).

The new section 28A also deems forfeited to the Government any film, advertisement for a film, equipment or material that is seized under the Act where the owner thereof consents to its disposal.

Clause 18 amends section 29 (relating to offences involving dealings in obscene films) by removing the minimum fine for the offences. The maximum punishment for the offences remains unchanged.

Clause 19 amends section 30 (relating to the offence of possession of obscene films) by removing the minimum fine for the offences. The maximum punishment for the offences remains unchanged.

Clause 20 amends section 31 (relating to the offence of advertising obscene films) by removing the minimum fine for the offence. The maximum fine remains unchanged.

Clause 21 amends section 32 (relating to offences involving children and young persons) by removing the minimum fine for the offence. The maximum fine remains unchanged.

Clause 22 amends section 34 by deleting the references to Censors, Deputy Censors, Assistant Censors and Inspectors of Films and replacing them with the reference to classification officers and licensing officers. This is consequential to the amendment in clause 4 and the new section 4.

Clause 23 amends section 35 (on prohibited films) to extend the restrictions to exhibition of such films.

Clause 24 repeals and re-enacts section 36 to extend the immunity from legal liability thereunder to members of the Committee of Appeal. There is no need to deal with the IMDA or classification officers and licensing officers. Section 45 of the Info-communications Media Development Authority Act 2016 already confers personal immunity from legal liability to members of the IMDA and IMDA employees and officers.

Clause 24 also repeals and re-enacts section 37 as the consequence of the abolition of approved warehouses by clause 11. The new section 37 provides for the modes of service of notices and other documents required by the Act to be served or given. However, the new section 37 does not cover services of summons or other court documents.

Clause 24 also repeals section 38 which becomes redundant with the abolition of the Board of Film Censors and the transfer of the administration of the Act to the IMDA. Section 43 of the Info-communications Media Development Authority Act 2016 already deems all employees and officers of the IMDA to be public servants for the purposes of the Penal Code (Cap.224).

The new sections 38 and 38A in replacement provide for criminal liability of directors, managers, partners, board members and certain executives of corporations, partnerships and unincorporated associations who commit offences under the Act or its subsidiary legislation. It is a standard provision in many statutes which creates an offence on the part of these individuals where their respective corporations, partnerships and unincorporated associations commit offences.

As the Act does not presently contain such a standard provision, in adherence to the prohibition against retrospective criminal laws in Article 11 of the Constitution, the new sections 38 and 38A will apply only with respect to offences committed by corporations, partnerships and unincorporated associations on or after the date of commencement of clause 24.

Clause 24 also introduces a new section 38B, which empowers classification officers and licensing officers who are specially authorised by the IMDA for this purpose to offer composition to alleged offenders of offences that are prescribed by regulations to be compoundable offences. Compounding may be done by these authorised officers collecting from a person reasonably suspected of having committed the offence half of the amount of the maximum fine that is prescribed for the offence or \$5,000, whichever is the lower.

Clause 25 repeals and re-enacts section 40 to require any exemption by the Minister to be published in the *Gazette* in order to be effective. It also clarifies that films commissioned or produced by the Government are exempt from the Act.

Clause 26 amends section 41 (on regulation-making powers) consequential upon the amendments in the Bill. In particular, power is conferred on the Minister to make regulations that may regulate licensees in their importing, distribution or public exhibition of films in the course of business and may require licensees to appoint persons registered as film content assessors to classify films which the licensees distribute or publicly exhibit.

Power is further given to the Minister to prescribe that a contravention of a regulation may be an offence that attracts a fine not exceeding \$5,000 or imprisonment for a term not exceeding 18 months or both. This is a higher punishment that is presently permitted by section 20(a) of the Interpretation Act (Cap. 1), which is a fine not exceeding \$2,000 or imprisonment for a term not exceeding 12 months or both.

Clause 27 makes a consequential amendment to the Cinematograph Film Hire Duty Act (Cap. 40) because of the transfer of classification functions from the Board of Film Censors to the IMDA.

Clause 28 makes a consequential amendment to the Public Entertainments Act (Cap. 257) to align the definition of “film” in that Act with the amended definition in the Bill.

Clause 29 sets out the savings and transitional provisions consequential upon the amendments in the Bill.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
