

CAYMAN ISLANDS



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THE FILM EXHIBITION CONTROL LAW, 2015
(LAW 9 OF 2015)

THE FILM EXHIBITION CONTROL LAW, 2015

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CAYMAN ISLANDS

Law 9 of 2015.

I Assent

Helen Kilpatrick

Governor.

26th June, 2015

A LAW TO REGULATE THE PUBLIC EXHIBITION OF FILMS; TO REPEAL THE CINEMATOGRAPH LAW (2009 REVISION); AND TO MAKE PROVISION FOR INCIDENTAL AND CONNECTED MATTERS

ENACTED by the Legislature of the Cayman Islands.

PART 1 - PRELIMINARY

1. This Law may be cited as the Film Exhibition Control Law, 2015 and shall come into force on such date as may be appointed by Order made by the Cabinet.

Short title and commencement

2. In this Law -

Interpretation

“Appeals Tribunal” means the tribunal established under section 36 of the Trade and Business Licensing Law, 2014;

“applicant” means any person who has applied for a rating certificate or a premises licence under this Law;

“Board” means the Film Control Board established under section 5;

“board of internationally recognised film censors” means an authority in the United Kingdom, the United States of America, Canada or in any other jurisdiction, established and internationally recognised as an authority which censors or rates a film according to its suitability for public exhibition;

“Chief Fire Officer” means the officer appointed under the Fire Brigade Law (2006 Revision);

(2006 Revision)

“child” means a person under the age of eighteen;

(2012 Revision)

“Collector of Customs” means the officer appointed under the Customs Law (2012 Revision);

“court” means the Grand Court or a court of summary jurisdiction;

“Department” means the department of Government known as the Department of Commerce and Investment”;

“film” includes -

- (a) a cinematograph exhibition, a slide, a video tape, a video disc and any other form of recording from which a visual image, including a computer generated image, can be produced;
- (b) a sequence of visual images recorded in such a manner that, by using such recording, the images will be capable of being seen as a moving picture and includes any picture intended for exhibition through any medium or device;
- (c) motion pictures, still photographs, photographic displays, filmstrips and such other forms of visual presentation as consist primarily of photographs or photographic reproductions;
- (d) photographic film, or a recording on magnetic tape or on any other material, from which a series of images, with or without associated sounds, may be produced; and
- (e) an advertisement of the film which consists of moving images;

“Minister” means the person responsible for commerce and investment;

“premises” includes -

- (a) any land or building;
- (b) any part of any land or building;
- (c) any structure of a movable character;
- (d) any mobile home, caravan, or other means of shelter placed or erected upon any land and intended for occupation on that land; and
- (e) any place, stall, vehicle or thing from where a business is carried on, irrespective of whether it is fixed or movable or partly fixed and partly movable;

“premises licence” means a public film exhibition premises licence issued by the Department under section 26 in respect of any premises;

“private premises” means premises to which the general public are not permitted access, whether for payment or otherwise;

“public film exhibition” , in relation to a film, means the display of a film with the aid of any apparatus, equipment, or device on any premises to which members of the general public have access whether for payment of money or

otherwise, and the expressions “exhibits”, “publicly exhibits”, “publicly exhibited” and “public exhibition” shall be construed accordingly;

“rating” means a classification ascribed to the content in a film pursuant to section 8(2)(a);

“rating certificate” means a public film rating certificate which ascribes a rating to a film pursuant to section 8(1); and

“trade officer” means a public officer appointed as such under the Trade and Business Licensing Law, 2014.

3. The objects of this Law are to -

Objects of the Law

- (a) establish a system of ascribing an appropriate rating to film content;
- (b) inform the viewing public of the contents in a film;
- (c) protect children from exposure to disturbing, harmful and adult content exhibited by a film;
- (d) stipulating the standards to be met for films to be publicly exhibited on premises; and
- (e) generally to regulate the public exhibition of a film.

4. This Law does not apply to -

Application of the Law

- (a) a film exhibited on private premises; or
- (b) the exhibition of a film where such exhibition is under the direction or control of any department of Government.

PART 2 – FILM CONTROL BOARD AND PUBLIC FILM EXHIBITION RATING CERTIFICATE

5. (1) There is established for the purposes of this Law a Board to be known as the Film Control Board.

Establishment of the Film Control Board

(2) The Board has the powers, duties and functions set out in this Law.

Schedule 1

(3) The provisions of Schedule 1 have effect as to the constitution of the Board.

6. (1) The functions of the Board include -

Functions of the Board

- (a) the issue of rating certificates in respect of a film to be publicly exhibited in the Islands;
- (b) regulating the public exhibition of any film to be exhibited in the Islands;
- (c) advising the Minister on any matter within its knowledge or on which he may seek its advice;
- (d) advising the Department on the terms and conditions on which a premises licence may be issued;

- (e) monitoring and facilitating the enforcement of activities to curb the exhibition of unsuitable films;
- (f) preparing film exhibition policies to transform the film industry;
- (g) developing and modifying classification guidelines;
- (h) advising the Minister on matters relating to or affecting the functions of the Board;
- (i) imposing and administering penalties in accordance with this Law and regulations made under this Law as they relate to the public exhibition of a film in contravention of a rating or prohibition; and
- (j) doing such other acts and things as are necessary for or incidental to the purposes for which the Board is established and which are necessary or expedient for the full discharge of all or any of the functions conferred on it by this Law.

(2) The Cabinet may give such general directions as to the policy to be followed by the Board in the performance of its functions under this Law.

Application for a rating certificate

7. (1) A person who wishes to publicly exhibit a film in the Islands shall apply to the Board for a rating certificate.

(2) An application for a rating certificate shall be made to the Board at least seven days before the intended date of the public exhibition of a film.

(3) The Board may, in its discretion, consider any application notwithstanding non-compliance with the seven day period required under subsection (1).

(4) An application for a rating certificate in respect of a film shall -

- (a) be in writing and signed by or on behalf of the applicant; and
- (b) be accompanied by -
 - (i) the fee specified in Schedule 2; and
 - (ii) information specifying the name of the film to be the subject of the application including the film format, film type, copyright year, copyright owner and country of origin.

Schedule 2

(5) The Board, in considering an application under this section may, if it considers necessary, require the applicant to provide any other information including-

- (a) a copy of the film;
- (b) a written synopsis of the film in English that includes a statement or summary of any incidents, or of the plot depicted or intended to be depicted by the film;
- (c) a copy of any advertisement that is proposed to be used to advertise the film; and

- (d) an indication as to the duration for which the film will be exhibited.

(6) The Board, on receipt of an application, shall, as soon as reasonably practicable, examine the film or have it examined by persons the Board considers appropriate in order to determine a suitable rating to be ascribed to the film.

8. (1) After receiving and considering an application made under section 7, the Board shall ascribe to the film a rating in accordance with its administrative policies and guidelines. Rating of film and film rating certificate

(2) Where the Board ascribes a rating to a film it shall -

- (a) issue a rating certificate to the applicant in the form specified in Schedule 3;
- (b) provide reasons for the rating ascribed; and
- (c) if it considers necessary, stipulate any additional terms and conditions attached to the rating.

(3) The Board may, prior to the conclusion of the application approval process, issue a rating certificate on a provisional basis.

(4) If the Board determines that a film is unsuitable for viewership in the Islands, it may, in its discretion, refund the application fee paid or such portion thereof as it considers fit.

9. The Board shall have regard to the following factors when ascribing a rating to a film - Factors in ascribing a rating

- (a) the rating or classification ascribed to the film by a board of internationally recognised film censors;
- (b) the standards of morality, decency and propriety generally accepted by the community;
- (c) whether the content is seditious, obscene, blasphemous or otherwise a breach of any laws of the Islands;
- (d) the use of discriminatory, offensive, obscene or vulgar language;
- (e) the exhibition of violent and graphic conduct;
- (f) the references to illegal drugs or drug misuse;
- (g) the portrayal of dangerous or antisocial behavior;
- (h) the scenes of nudity, display of sexual activity, obscene displays and other forms of pornography;
- (i) content displaying horror, blood and gore;
- (j) the persons or class of persons to or among whom the film will be exhibited;
- (k) the literary, artistic or educational merit of the film;
- (l) the medical, legal or scientific benefit of the film;
- (m) whether the film is in the public interest; and

- (n) any other factor which, in the opinion of the Board, may influence the rating of a film.

Unrated film unsuitable
for child viewership

10. (1) A film which has not been rated in accordance with section 8 shall be regarded as unsuitable for viewing by a child.

(2) A person who is the -

- (a) owner or controller of an unrated film; or
- (b) owner or controller of premises on which the unrated film is intended to be exhibited or is being exhibited,

shall not cause or permit; or continue to cause or permit the film -

- (i) to be exhibited to a child; and
- (ii) to be exhibited before 7:00 p.m., notwithstanding paragraph 3(1)(b) of Schedule 6 or at such other times as may be prescribed without the prior approval of the Board.

Schedule 6

(3) Notwithstanding section 2(b)(ii), the Board may, and having regard to the factors specified in section 9, prohibit a person from exhibiting an unrated film in the Islands.

(4) A person who contravenes subsection (2) or acts contrary to a prohibition in subsection (3) is liable to a penalty of two thousand dollars or such other amount as may be prescribed and a further penalty of one hundred dollars for each day that the breach continues after the date of its proof.

(5) A person commits an offence and is liable on summary conviction to a fine of four thousand dollars or to imprisonment for a term of six months or to both if -

- (a) he fails to pay the penalty specified in subsection (4);
- (b) continues to exhibit the film after a failure to pay the penalty specified in subsection (3); or
- (c) after having paid the penalty continues to exhibit the film in contravention of subsection (1).

(6) Where an offence under subsection (5) has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of the member in connection with his functions of management as if he were a director of the body corporate.

11. (1) A person who owns or controls a film which has been ascribed a rating or classification by a board of internationally recognised film censors - Exemption when film rated by internationally recognised film censors
- (a) is not required to apply for a rating certificate prior to the public exhibition of the film; and
 - (b) is not precluded from exhibiting the film to a child if the rating ascribed permits such exhibition.
- (2) Notwithstanding subsection (1) and subject to the assessment of the particulars under section 12(1), the Board may ascribe a contrary rating to a film in accordance with its rating policies and guidelines if it determines that the content of the film requires a rating different from the rating ascribed by the board of internationally recognised film censors.
- (3) A rating ascribed under subsection (1) or (2) shall be complied with by the person -
- (a) who owns or controls the film; and
 - (b) who owns or controls the premises on which the film is to be publicly exhibited.
- (4) A person who contravenes subsection (3) is liable to a penalty of two thousand dollars or such other amount as may be prescribed and a further penalty of one hundred dollars for each day that such breach continues after the date of its proof.
12. (1) A person who intends to publicly exhibit any film shall, at least twenty-four hours before its exhibition, provide the Board with all the particulars identified in Schedule 4. Submission of list of films to be exhibited
Schedule 4
- (2) Where there is a change in any of the particulars provided under subsection (1), the Board shall be notified in writing immediately by the owner or controller of the film of the nature of the change.
- (3) A person who contravenes subsection (3) is liable to a penalty of two thousand dollars or such other amount as may be prescribed and a further penalty of one hundred dollars for each day that such breach continues after the date of its proof.
13. A rating certificate issued by the Board under section 8(2)(a) shall be valid - Validity of certificate
- (a) for all formats of the film; and
 - (b) for the duration of the film exhibition, unless otherwise suspended or revoked.
14. (1) A person who is issued a rating certificate or any distributor or exhibitor or any other person to whom the rights in the film have passed, shall ensure that for the duration of its public exhibition, the details of the rating Display of rating

ascribed to the film are visibly displayed with the film and any advertisement associated with the film.

(2) A film which is unrated pursuant to section 10(1) shall only be exhibited if, for the duration of its public exhibition, details indicating that the film is unsuitable for viewing by a child are visibly displayed with the film and any advertisement associated with the film.

Change in rating

15. A new application for a rating certificate shall be made in order to change the rating ascribed to a film and on receipt of such an application, the Board shall process and decide the application in accordance with section 7.

Appeals against Board decisions

16. (1) A person dissatisfied with a decision of the Board may, within twenty-one days of the communication of the decision to him, by notice in writing, appeal to the Appeals Tribunal.

(2) In making an appeal under subsection (1), the appellant shall -

- (a) provide the original application;
- (b) provide the decision against which the appeal is made;
- (c) indicate the grounds of the appeal; and
- (d) indicate whether he wishes to be heard personally or through a representative.

(3) The Appeals Tribunal may confirm or vary the decision of the Board or make such other decision on the appeal as seem to it to be expedient.

(4) A person aggrieved by a decision of the Appeals Tribunal under subsection (3) may, within twenty-one days of the date on which notice of the written reasons for the decision was received, appeal to the court against the decision.

(5) For the purposes of subsection (1), the decision shall, if notice of it is sent to a person by post, be taken to have been communicated to him at the time at which it would have been received in the ordinary course of post.

Refund of customs duties

17. Where the Collector of Customs is satisfied that -

- (a) a film has been imported and that the customs duties payable have been paid;
- (b) such film has not been exhibited due to a prohibition of the Board; and
- (c) the film has since been exported,

he shall, upon the request by the importer, refund to the importer of the film the full amount of the customs duties.

18. (1) The Board may suspend a rating certificate or recognition of a rating given by a board of internationally recognised film censors for such period as it thinks fit, or it may revoke such certificate or recognition if it is satisfied that - Suspension or revocation of certificate and penalty
- (a) the film or any part thereof in respect of which the rating certificate was issued or recognition given is being exhibited in a form other than the one approved;
 - (b) the film or any part thereof is being exhibited in contravention of the provisions of this Law;
 - (c) the holder of the rating certificate or the person who owns or controls the film to which recognition was given has failed to pay the penalty imposed under section 19(1);
 - (d) the certificate or rating given by a board of internationally recognised film censors has been obtained by fraud or misrepresentation as to an essential fact; or
 - (e) the owner or controller of the film has otherwise acted in contravention of this Law.
- (2) A film shall not be made available for public exhibition -
- (a) during the period in which a rating certificate or recognition of a rating given by a board of internationally recognised film censors remains suspended; or
 - (b) after the revocation of a rating certificate or recognition of a rating given by a board of internationally recognised film censors.
- (3) The Board shall not take any action under this section without giving the owner or controller of the film an opportunity of being heard.
- (4) A person who continues to publicly exhibit a film notwithstanding -
- (a) the suspension or revocation of a rating certificate or recognition of a rating given by a board of internationally recognised film censors; or
 - (b) being notified in writing by the Board that he is acting in contravention of the provisions of this Law,
- is liable to a penalty of two thousand dollars or such other amount as may be prescribed and a further penalty of one hundred dollars for each day that such breach continues after the date of its proof.
- (5) A person who wishes to contest a penalty imposed pursuant to subsection (1) may, within twenty-one days of its imposition, appeal to the Appeals Tribunal.
- (6) The Appeals Tribunal may confirm or vary the decision of the Board or make such other decision on the appeal as seem to it to be expedient.

(7) A person aggrieved by a decision of the Appeals Tribunal under subsection (6) may, within twenty-one days of the date on which notice of the written reasons for the decision was received, appeal to the court against the decision.

Penalties in relation to rating certificate

19. (1) A person who -

- (a) wilfully makes a false or inaccurate representation to the Board;
- (b) publicly exhibits or attempts to publicly exhibit a film contrary to a prohibition specified under section 10(3);
- (c) publicly exhibits or attempts to publicly exhibit a film in contravention of a rating, condition or restriction contained in the rating certificate;
- (d) fails to visibly exhibit with the film and any advertisement associated with the film, the ascribed rating for the duration of its exhibition; or
- (e) publicly exhibits a film in contravention of a decision by the Board,

is liable to a penalty of two thousand dollars or such other amount as may be prescribed and a further penalty of one hundred dollars for each day that such breach continues after the date of its proof.

(2) A person who wishes to contest a penalty imposed pursuant to subsection (1) may, within twenty-one days of its imposition, appeal to the Appeals Tribunal.

(3) The Appeals Tribunal may confirm or vary the decision of the Board or make such other decision on the appeal as seem to it to be expedient.

(4) A person aggrieved by a decision of the Appeals Tribunal under subsection (3) may, within twenty-one days of the date on which notice of the written reasons for the decision was received, appeal to the court against the decision.

Penalties attached to body corporate certificate holders

20. (1) Where an act under section 19 has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of the member in connection with his functions of management as if he were a director of the body corporate.

PART 3 – PUBLIC FILM EXHIBITION PREMISES LICENCE

21. For the purposes of this Law, the Department shall be the authority having the power to issue, in the form specified in Schedule 5, a premises licence to any person who wishes to publicly exhibit a film on premises identified by him. Department as licensing authority
Schedule 5
22. (1) The functions of the Department include - Functions of the Department
- (a) considering all applications made for a premises licence;
 - (b) issuing, suspending and revoking a premises licence;
 - (c) enforcing regulations to protect children from exposure to harmful film content;
 - (d) ensuring compliance with health and safety regulations on premises licensed to conduct public film exhibitions;
 - (e) giving notice of the prescribed days on and times at which public film exhibitions may be conducted; and
 - (f) imposing and administering penalties in accordance with this Law and regulations made under this Law as they relate to the issue of a premises licence.
- (2) The Cabinet may, after consultation with the Department, give such general directions as to the policy to be followed by the Department in the performance of its functions under this Law and the Department shall follow such directions.
23. (1) A person who wishes to publicly exhibit a film on premises identified for that purpose shall apply to the Department for a premises licence. Application for premises licence to exhibit a film
- (2) An application for a premises licence or a renewal thereof shall be made in writing, signed by or on behalf of the applicant and accompanied by -
- (a) the fee specified in Schedule 2, apportioned to the number of unexpired months in a year, part of a month being calculated as one month; Schedule 2
 - (b) evidence showing that the existence of the premises is in compliance with the relevant planning, building, safety, fire and health laws or codes;
 - (c) the relevant trade and business licence required, under the Trade and Business Licensing Law, 2014; and
 - (d) the relevant licence to carry on a business in the Island required under Local Companies (Control) Law (2007 Revision). (2007 Revision)
24. The Department may exempt a person from paying the fee for a premises licence where it is determined that - Exempted public film exhibitions
- (a) the film falls into any of the following categories -
 - (i) films which are not promoted for private gain;

- (ii) films for which the sole or main purpose of the exhibition is to demonstrate any product, to advertise any goods or services or to provide information, education or instruction;
 - (iii) films organised solely or mainly as an exhibition for children who are members of a club, society or association;
 - (iv) films of a promotional or technical nature and for use in the course of a business, trade or profession;
 - (v) films whose main purpose is for training, instruction or reference, as a manual, a lesson, an encyclopedia or a guide;
 - (vi) films wholly comprising news reports or information about, or analysis of, current issues or events of public interest or importance;
 - (vii) films wholly comprising a documentary record of a hobby, activity, sporting event; family event or activity; live artistic performance; musical presentation; a religious activity; or a community or cultural activity; or
 - (viii) any other film, which in the opinion of the Department, should be an exempt film;
- (b) the premises on which it is proposed to conduct a public film exhibition are premises used or to be used occasionally and not on more than six days in any year for the purposes of an exhibition;
 - (c) the premises on which a film is to be publicly exhibited are of a movable character; or
 - (d) admission to view films on the premises will be free of charge.

Proceedings of the
Department

25. The Department may adopt such processes as it considers appropriate in order to facilitate the execution of its functions.

Issue of premises licence

26. (1) On being satisfied that an application made pursuant to section 23 has met all requirements, the Department shall, within seven days of that application, issue a premises licence.

Schedule 6

(2) A premises licence issued under this section shall include, as one of its terms, the compliance with the rules specified in Schedule 6.

(3) The Department may attach other conditions or restrictions to a premises licence it considers fit.

(4) A person to whom a premises licence has been issued shall not -

- (a) exhibit a film on premises other than those identified in the licence; and
- (b) permit a child to enter the premises to view a film contrary to a rating ascribed to the film or the prohibition specified in section 10.

(5) If the Department refuses to issue a premises licence, it may, in its discretion, refund the fee paid or such portion thereof as it may consider fit.

27. (1) A premises licence shall be valid for a period of one year and may be renewed. Duration and renewal of premises licence

(2) An application for the renewal of a premises licence shall be made at least twenty-one days before the date of its expiry and be accompanied by the relevant fee as provided in the Schedule 2. Schedule 2

28. (1) The Department may suspend a premises licence for such period as it thinks fit, or it may revoke the premises licence if it is determined that - Suspension or revocation of premises licence and offence

- (a) a film in respect of which a rating certificate was issued or recognition accorded to the rating given by a board of internationally recognised film censors is being exhibited in a form other than the one in which it was certified or recognised;
- (b) the premises in respect of which the licence was issued is being used contrary to the licensing terms;
- (c) the film is being exhibited contrary to the prohibition specified in section 10(1);
- (d) there is noncompliance with the rules specified in Schedule 6; Schedule 6
- (e) the holder of the premises licence has failed to pay the penalty imposed under section 31(1);
- (f) the premises licence has been obtained by fraud or misrepresentation as to an essential fact; or
- (g) the film or any part thereof is otherwise being exhibited in contravention of the provisions of this Law.

(2) In the event of the revocation of a licence issued under the Local Companies (Control) Law (2007 Revision) or the Trade and Business Licensing Law, 2014 the Department shall revoke a premises licence. (2007 Revision)

(3) Premises shall not be made available for the conduct of any public film exhibition -

- (a) during the period in which a premises licence remains suspended; or
- (b) after the revocation of a premises licence.

(4) The Department shall not take any action under this section without giving the owner or controller of the premises an opportunity of being heard.

(5) A person who continues to publicly exhibit a film on premises notwithstanding -

- (a) the suspension or revocation of a premises licence; or

- (b) being notified in writing by the Department that he is acting in contravention of the provisions of this Law,

commits an offence and is liable on summary conviction to a fine of four thousand dollars or to imprisonment for a term of six months or to both; and in the case of a continuing breach, a person may be ordered by the court to pay a further sum of one hundred dollars for each day that such breach continues after the date of its proof.

(6) Where an offence under subsection (5) has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of the member in connection with his functions of management as if he were a director of the body corporate.

General directions of
Department

29. (1) The Department may issue directions to the holder of a premises licence for the purpose of regulating the public exhibition of any film or type of films on the premises.

(2) The Department, in issuing a premises licence with respect to any premises, may impose conditions or restrictions relating to the admission of children to film exhibitions involving the showing of works designated by the Board as unsuitable for children.

Appeals against
Department decisions

30. (1) A person aggrieved by the decision of the Department with respect to the issue, revocation or suspension of a premises licence may, within twenty-one days of the decision, appeal to the Appeals Tribunal.

(2) A person aggrieved by a decision of the Appeals Tribunal under subsection (5) may, within twenty-one days of the date on which notice of the written reasons for the decision was received, appeal to the court against the decision.

(3) An appeal under subsection (1) shall be by notice in writing setting out-

- (a) the original application;
- (b) the decision against which the appeal is made; and
- (c) the grounds of the appeal.

(4) On receipt of the notice of appeal, the Appeals Tribunal shall decide if there is just cause for the appellant or his representative to be heard and if it is so

decided, notify the appellant or his representative and the Department of the date and time of the hearing.

(5) The decision of the Appeals Tribunal shall be communicated to the appellant as soon as is reasonably practicable.

31. (1) A person who -

Penalties in relation to premises licence

- (a) publicly exhibits or attempts to publicly exhibit a film on premises without a premises licence;
- (b) has been issued a premises licence and exhibits a film in contravention of a condition or restriction contained in such licence; or
- (c) being the owner or controller of premises knowingly permits another person to attend a public exhibition of any film on those premises in a manner contrary to the terms and conditions in a public films rating certificate,

is liable to a penalty of two thousand dollars or such other amount as may be prescribed and a further penalty of one hundred dollars for each day that the breach continues after the date of its proof.

(2) A person who wishes to contest a penalty imposed pursuant to subsection (1) may, within twenty-one days of its imposition, appeal to the Appeals Tribunal.

(3) The Appeals Tribunal may confirm or vary the decision of the Board or make such other decision on the appeal as seem to it to be expedient.

(4) A person aggrieved by a decision of the Appeals Tribunal under subsection (3) may, within twenty-one days of the date on which notice of the written reasons for the decision was received, appeal to the court against the decision.

32. (1) Where an act under section 31 has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate is liable to be penalised accordingly.

Penalties attached to body corporate licence holders

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of the member in connection with his functions of management as if he were a director of the body corporate.

PART 4 – ENFORCING THE CONDUCT OF PUBLIC FILM EXHIBITIONS

Enforcement by trade officers

33. (1) The Board and the Department shall be assisted by such trade officers as are necessary for the purposes of enforcing this Law.

(2) Subject to subsection (3), trade officers shall have all the rights, powers, privileges and immunities of a constable when discharging their duties under this Law.

(3) A trade officer shall have the authority and power to carry out such instructions as may be given by the Board and the Department in relation to this Law and may enforce, on behalf of the Board or Department, any powers granted by this Law or any of its regulations.

Power of search and seizure

34. (1) If a trade officer suspects, on reasonable grounds, that a person has committed or is committing an act in contravention of this Law or its regulations, the trade officer may -

- (a) require to be produced and examined and take copies of any rating certificate, premises licence or other document required under this Law;
- (b) with a warrant, use such force as may be necessary to enter and search any premises that the trade officer reasonably suspects may contain evidence of the commission of an act in contravention of this Law or any of its regulations; and
- (c) without a warrant and acting on reasonable suspicion, use such force as may be necessary to enter the premises of a film exhibitor and request the production of a rating certificate or premises licence.

(2) If the trade officer is satisfied, after exercising any of the powers of search and seizure under this section, that there is reasonable evidence of the commission of an act in contravention of this Law, he may seize any film, equipment or any other item that may be used as evidence of the commission of a breach of this Law.

(2013 Revision)

(3) Where a warrant to search any premises is required, the trade officer shall apply to the court or to a justice of the peace and the provisions of the Criminal Procedure Code (2013 Revision) which relate to search warrants shall apply.

(4) The power of search conferred is only a power to search to the extent that it is reasonably required for the purpose for which the power of entry is exercised.

(5) Where access to premises is denied, a trade officer may break and enter those premises to gain access for the purpose of an arrest.

(6) Any person who assaults, obstructs, intimidates, refuses to give his name and address or gives a false name and address to, or gives any other false information to a trade officer in the performance of his duties commits an offence and is liable on summary conviction to a fine of two thousand dollars, to imprisonment for six months, or to both.

(7) A trade officer may, at any time during business hours, without a warrant, carry out inspections of premises, rating certificates and premises licences to ensure that all activities are being conducted in compliance with this Law.

(8) Information acquired by a trade officer in the course of his duties may be supplied to any other law enforcement officer in furtherance of any investigation under this Law.

35. No prosecution under this Law shall be instituted for an offence except under the authority of the Director of Public Prosecutions.

Prosecution requires consent of Director of Public Prosecutions

PART 5 – MISCELLANEOUS

36. The Minister may determine that a person who wishes to publicly exhibit a film shall, subject to any specified terms and conditions, be exempted from the provisions of this Law relating to the application procedures for a rating certificate and premises licence.

Exemptions from application procedures

37. All fees, penalties and fines paid under this Law shall form part of the general revenue of the Islands.

Fees, penalties and fines part of general revenue

38. The Cabinet may make regulations in relation to -

Regulations

- (a) the functions of the Board and the Department;
- (b) the ratings and factors affecting the ratings of a film;
- (c) the welfare and health of children in relation to their attendance at a public film exhibition;
- (d) the general safety, health and security of persons attending a public film exhibition;
- (e) the standards to be met for a premises to be recognised as fit to facilitate public film exhibitions;
- (f) the fees to be paid for certificates and licences required under this Law;
- (g) the hours during which and days on which a public exhibition may be conducted;
- (h) the form and duration of certificates and licences issued under this law and the conditions or restrictions attached to the issuance of a rating certificate or premises licence;
- (i) all matters that are necessary to be prescribed for giving effect to the penalty system under the Law and the quantum of penalties for acting in contravention of this Law; and

- (j) any matter generally for the better carrying out of the objects and purposes of this Law.

Burden of proof 39. A question of fact arising in any proceedings under this Law, other than in criminal proceedings, shall lie with the defendant and be decided on a balance of probabilities.

Amendment of Schedules 40. The Cabinet may, by Order, amend Schedules 1, 2, 3, 4, 5 and 6.

Repeal of Cinematograph Law (2009 Revision) 41. The Cinematograph Law (2009 Revision) is repealed.

Savings and transitional provisions 42. (1) All proceedings pending at the date of the commencement of this Law in respect of offences committed or alleged to have been committed against the Cinematograph Law (2009 Revision) shall be continued and dealt with as if this Law had not come into force.

(2009 Revision) (2) Where anything done under or for the purposes of the Cinematograph Law (2009 Revision) would cease to have effect by virtue of the repeal of that Law it shall have effect as if it had been done under and for the purposes of this Law.

(3) Where prior to the commencement of this Law applications were made for the grant of permission or issue of licences under the Cinematograph Law (2009 Revision) and such applications have not been wholly or partly dealt with at the date of commencement of this Law, such applications shall be taken to be applications made under this Law and the Board and Department shall deal with all such applications in accordance with this Law.

SCHEDULE 1

(Section 5(3))

THE FILM CONTROL BOARD

Constitution of the Board

1. The Board shall be comprised of three members appointed by the Cabinet including a person who has professional experience or qualifications in film production, censorship systems, cinematography, drama, law, literature, social sciences, media, education or performing arts.

Tenure of Office

2. (1) The members shall be appointed by instrument in writing and shall hold office for a term of not more than three years.

(2) An appointed member shall be eligible for re-appointment.

- (3) The office of an appointed member shall be a public office.

Chairman

3. There shall be a Chairman of the Board who shall be appointed by the Cabinet from among the members of the Board.

Acting appointments

4. If any member is absent or unable to act, the Cabinet may appoint any person to act in the place of that member and in the case of the appointed members such appointment shall be made in the same manner and from among any of the categories of persons as would be required in the case of the substantive appointment.

Resignation

5. An appointed member may at any time resign his office by instrument in writing addressed to the Cabinet and transmitted through the Chairman and from the date of receipt by the Cabinet of such instrument, that person shall cease to be a member.

Revocation of appointment

6. The Cabinet may at any time revoke the membership of an appointed member.

Filling of vacancies

7. If a vacancy occurs in the membership of the appointed members such vacancy shall be filled by the appointment of another appointed member and such appointment shall be made in the same manner and from any of the categories of persons as would be required in the case of the original appointment.

Gazetting of membership

8. The names of all members of the Board as first constituted and every change therein shall be published in the Gazette.

Remuneration

9. (1) The appointed members of the Board shall be paid such allowances as the Cabinet may determine.

- (2) The payment of such allowances shall be paid out of the revenue of the Islands.

Secretariat

10. (1) The Department shall serve as the Secretariat to the Board and deal with all matters necessary to facilitate the Board in the execution of its functions.

- (2) The office of the Board shall be the Secretariat.

Seal and execution of documents

11. (1) The seal of the Board shall be authenticated by the chairman and one other member of the Board authorised to act in that behalf.

(2) The Board may, by resolution, appoint an officer of the Board either generally or in a particular case to execute or sign on behalf of the Board any agreement or other instrument not under seal in relation to any matter coming within the powers of the Board.

Proceedings and meetings

12. (1) The Board shall meet at such times or frequency as the Chairman may determine for the carrying out of its functions.

(2) A quorum of the Board shall be two.

(3) The decision of the Board shall be by a majority of votes and, in addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal.

(4) Minutes in proper form of each meeting shall be kept by the Board and shall be confirmed by the Chairman as soon as practicable at a subsequent meeting.

(5) Minutes of a meeting shall include any electronic record or transcript of votes or decisions made during a meeting that takes place by means of conference telephone, computer or similar equipment.

(6) Members of the Board may participate in a meeting of the Board by means of a conference telephone, computer or similar equipment providing real time communication and allowing the participants in the meeting to communicate with each another at the same time, and participation by such means shall constitute presence in person at the meeting of the Board.

(7) The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of any member thereof.

(8) Any written notice or other document required to be served upon the Board may be served by leaving the notice or document at the Secretariat or by sending it to the Secretariat through the post in a prepaid letter addressed to the Board.

Immunity

13. Neither the Board, nor any member or officer of the Board, shall be liable in damages for anything done or omitted in the discharge or purported discharge of

their respective functions under this Law unless it is shown that the act or omission was in bad faith.

Indemnity

14. The Board shall indemnify a member against all claims, damages, costs, charges or expenses incurred by that member in the discharge or purported discharge of his functions under this Law, except claims, damages, costs, charges or expenses caused by the bad faith of that member.

Disclosure of member's interests

15. (1) If a member has any pecuniary interest, direct or indirect, in any matter to be considered by the Board and is present at a meeting of the Board at which the matter is to be considered, he shall at or before the meeting or before the matter is considered, disclose the fact and shall leave the meeting for the duration of and not take part in the consideration or discussion of or vote on the matter.

(2) If a member fails to comply with subparagraph (1) he commits an offence and is liable -

- (a) on summary conviction to a fine of one thousand dollars or to imprisonment for a term of three months, or to both; or
- (b) on conviction on indictment to a fine of three thousand dollars or to imprisonment for a term of six months, or to both,

unless he proves that he did not know that the matter in which he had a pecuniary interest was the subject of consideration at that meeting.

(3) A disclosure under subparagraph (1) shall be recorded in the minutes of the Board's meetings.

(4) This paragraph does not apply to an interest in a matter which a member has as a member of the public or to an interest in any matter in which the right to participate in any service is offered to the public.

Member's pecuniary interests

16. (1) For the purposes of paragraph 15, a member shall be treated as having an indirect pecuniary interest in a matter if -

- (a) he or any nominee of his is a member of a company or other body which has a direct or indirect pecuniary interest in the matter under consideration;
 - (b) he is a partner, or in the employment of a person with whom the contract was made or is proposed to be made, or who has a direct or indirect pecuniary interest in the matter under consideration;
- or

(c) he or any partner of his is a professional adviser to a person who has a direct or indirect pecuniary interest in a matter under consideration.

(2) Subparagraph (1) does not apply to membership of, or employment by, any public body.

(3) In the case of married persons, the interest of one spouse shall be deemed for the purpose of paragraph 15 to be also the interest of the other.

(4) The Cabinet may, subject to such conditions as it may think fit, appoint persons to act as members for any specified period, in any case in which the number of members disabled by paragraph 15 at any one time would be so great a proportion of the whole as to impede the transaction of business by the Board.

Procedure

17. Subject to this Law and the rights, freedoms and responsibilities provided under Part 1 of the Cayman Islands Constitution Order, 2009, the Board has the power in all respects to regulate its own procedure, including the manner in which matters subject to the determination of the Board are to be dealt with by the Board.

(Sections 7(4)(b)
(i), 23(2)(a) and
27(2))

SCHEDULE 2

FEES	
1. Public Film Rating Certificate Fee:	\$25
2. Public Film Exhibition Premises Licence Annual Fee:	
For each screen on premises used for public film exhibitions –	
(a) if the charge for admission of a person does not exceed \$1.50	\$100
(b) if the charge for admission of a person does not exceed \$2.00	\$250
(c) if the charge for admission of a person does not exceed \$2.50	\$750
(d) if the charge for admission of person exceeds \$2.50	\$1500

SCHEDULE 3

(Section 8(2)(a))

PUBLIC FILM RATING CERTIFICATE

DEPARTMENT OF COMMERCE AND INVESTMENT

FILM EXHIBITION LAW, 2015

SECTION 8(2)(a)

Public Film Rating Certificate

Ref No.	Certificate No.
Name:	
Address:	
Email:	
Phone#:	
Fax#:	
Title of Film:	
Type of Film:	

Country of Origin:	
Format of Film:	
Duration of Film:	
Copyright Year:	
Copyright Owner:	

It is hereby certified that the film entitled:

has been ascribed a rating of: _____

Reason(s) for rating: _____

Terms and conditions:

(a) _____

(b) _____

(c) _____

Date of issue: The _____ day of _____ 20 _____

Signed:

Chairman of the Board

SCHEDULE 4

(Section 12(1))

FILM EXHIBITION PARTICULARS

FILM EXHIBITION LAW, 2015

SECTION 12(1)

Name of Film Owner or Controller:

Address:

E-mail:

Telephone#:

Fax#:

Title of Film(s):

Type of Film(s):

Country of Origin:

Copyright Year:

Copyright Owner:

Is Film Unrated:

Rating Ascribed by the Film Exhibition Control Board:

Rating Ascribed by a Board of Internationally Recognised Film Censors:

Proposed location(s) of Film Exhibition:

Proposed date(s) of Film Exhibition:

Proposed time(s) of Film Exhibition:

SCHEDULE 5

(Section 21)

**PUBLIC FILM EXHIBITION PREMISES LICENCE
DEPARTMENT OF COMMERCE AND INVESTMENT
FILM EXHIBITION LAW, 2015**

SECTION 21

Public Film Exhibition Premises Licence

Ref No.	Licence No.
---------	-------------

New Licence:

Renewal of Licence:

Name: _____

Address of Applicant: _____

Address of Premises: _____

Email: _____ Phone: _____

Fax: _____

It is hereby certified that the premises located at _____

Block# _____ Parcel # _____ are licensed to facilitate the conduct of public film exhibitions in the Islands on:

Weekdays:

Sundays:

with effect from _____ until _____ .

Terms and conditions:

(a) The Licensee herein shall act in accordance with the Film Exhibition Control Rules, 2015, provided in Schedule 6.

(b) _____

(c) _____

Date of issue: The _____ day of _____ 20 .

Signed:

On behalf of the Department of Commerce and Investment

SCHEDULE 6

(Sections
10(2)(ii), 26(2)
and 28(1)(d))

FILM EXHIBITION CONTROL RULES, 2015

- 1. These Rules may be cited as the Film Exhibition Control Rules, 2015. Citation
- 2. In these Rules- Definition
 “weekdays” mean every day except Sunday.
- 3. (1) Public film exhibitions shall only be conducted on - Film exhibition days
 (a) weekdays; and
 (b) Sundays, between the hours of 2:00 p.m. and midnight.
 (2) A person who wishes to conduct the public exhibition of a film outside of the hours specified in subparagraph (1)(b) shall submit a written request to the Department and the Department may, after considering the request, grant permission for the conduct of the public exhibition of the film.
- 4. A premises licence shall be framed and displayed on the premises used for such purposes. Display of licence
- 5. Only films which - Display of rated films
 (a) have been rated or recognised by the Board; or
 (b) are categorised as unrated,
 may be displayed on premises licensed to conduct public film exhibitions.
- 6. A person to whom a premises licence has been issued shall, on the premises to be used to for a public film exhibition - Posters and advertisements
 (a) attach, or cause to be inserted, in or attached to any poster displayed outside such premises advertising the public exhibition

of such film, the rating of the film and an explanation signifying the rating so that such information is clearly legible to a person ordinarily reading the wording of such poster;

- (b) insert, or cause to be inserted, in any advertisement in any newspaper or other publication relating to the exhibition of such film, the rating of the film and an explanation signifying the rating so that such information is clearly legible to any person ordinarily reading the wording of such advertisement; and
- (c) display, or cause to be displayed, throughout any period when seats are able to be reserved, or tickets sold, in respect of the public exhibition of such film, a notice set out in such place as to be clearly visible and legible to any person making a booking or purchasing a ticket with respect to the film; and
- (d) shall take all reasonable steps to ensure that no person other than a permitted person shall be admitted to view such film and, in particular, shall give instructions in that behalf to any person engaged in the reservation of seats or the sale of tickets in respect of the exhibition of any such film.

Sanitary facilities

7. A person conducting a public film exhibition shall provide suitable sanitary facilities for persons attending the exhibition and such other facilities as may be required by the relevant public health laws.

Balconies

8. Where the premises on which a film is to be publicly exhibited contains a balcony -

- (a) adequate stairs leading up to such balcony shall be provided;
- (b) adequate hand rails shall be affixed to the stairs; and
- (c) the stairs shall be sufficiently wide to permit persons ascending and descending to pass without difficulty.

Aisles and exits

9. (1) If the premises contain an auditorium, an aisle on each side shall be provided.

(2) If the premises contain a balcony a central aisle shall be provided on the balcony and an aisle on each side.

(3) The width of an aisle shall not be less than four feet.

(4) Not less than two exits shall be provided for an auditorium and not less than one for a balcony.

(5) The exits provided in an auditorium shall be located at that screen end and the projection end of the auditorium.

Safety and health laws or codes

10. Documentary evidence shall be provided to reflect that the condition of the premises is in compliance with the relevant planning, building, safety, fire and health laws or codes.

Passed by the Legislative Assembly the 19th day of June, 2015.

Juliana O'Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.