

KERALA CINEMAS (REGULATION) ACT, 1958

(ACT 32 OF 1958)

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THE SCHEDULE.

ACT 32 OF 1958 \*

THE KERALA CINEMAS (REGULATION) ACT, 1958

*An Act to provide for the regulation of exhibitions by means of cinematographs in the State of Kerala.*

*Preamble.*—WHEREAS it is expedient to provide for the regulation of exhibitions by means of cinematographs in the State of Kerala;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Cinemas (Regulation) Act, 1958.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. *Definition.*—In this Act, unless the context otherwise requires,—

(1) "cinematograph" includes any apparatus for the representation of moving pictures or series of pictures;

(2) "notification" means a notification published in the Gazette;

(3) "place" includes a house, building, tent and any description of transport, whether by water, land or air;

(4) "prescribed" means prescribed by rules made under this Act;

(5) "State" means the State of Kerala.

3. *Cinematograph exhibitions to be licensed.*—Save as otherwise provided in this Act, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act, or otherwise than in compliance with any conditions and restrictions imposed by such licence.

<sup>1</sup>[4. *Licensing authority.*—The authority having power to grant a licence under this Act (hereinafter referred to as the licensing authority) shall be the executive authority of the local authority within whose jurisdiction the place in respect of which the licence is to be granted is situate:

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\* Received the assent of the Governor on the 15<sup>th</sup> July, 1958 and published in the Kerala Gazette Extraordinary dated 17th July, 1958.

1. Substituted by Act 22 of 1975(w.e.f. 05.07.1975).

Provided that the Government may, by notification, constitute for the whole or any part of the State such other authority as they may specify in the notification to be the licensing authority for the purposes of this Act.]

*5. Restrictions on powers of licensing authority.*—(1) The licensing authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters namely:—

- (a) the interest of the public generally;
- (b) the status and previous experience of the applicant;
- (c) the suitability of the place where the cinematograph exhibitions are proposed to be given;
- (d) the adequacy of existing places for the exhibition of cinematograph films in the locality;
- (e) the benefit to any particular locality or localities to be afforded by the opening of a new place of cinematograph exhibition;
- (f) the possession by the applicant of other places, if any licensed under this Act, whether in the same locality or elsewhere, and whether at the time of applying for the licence or at any previous time, and shall also take into consideration any representations made by persons already giving cinematograph exhibitions in or near the proposed locality, whether within the jurisdiction of the same local authority or not, or by any police authority within whose jurisdiction the place proposed to be licensed is situated or by any association interested in the giving of cinematograph exhibitions.

(2) The licensing authority shall not grant a licence unless it is satisfied that—

- (a) the rules made under this Act have been substantially complied with, and
- (b) adequate precautions have been taken in the place, in respect of which the licence is to be granted, to provide for the safety, convenience and comfort of the persons attending exhibitions therein:

Provided that the licensing authority shall, before refusing to grant licence under this Act, give the applicant an opportunity of showing cause against the proposed action.

(3) The licensing authority may, after consideration of the matters set forth in subsection (1), limit the number of places in any area in respect of which licences under this Act may be granted.

(4) The Government may issue such orders and directions of a general character as they may consider necessary, in respect of any matter relating to licences for the exhibition of cinematograph films, to licensing authorities; and every licensing authority shall give effect to such orders and directions.

(5) Subject to the foregoing provisions of this section, the licensing authority may grant licences under this Act to such persons and on such terms and conditions and subject to such restrictions as it may determine.

(6) Every licence under this Act shall be personal to the person to whom it is granted and no transfer or assignment thereof, whether absolute or by way of security or otherwise shall be valid unless approved in writing by the licensing authority.

(7) Any person aggrieved by the decision or order taken or passed by the licensing authority under this Act may, within such time as may be prescribed, appeal,

<sup>1</sup>[(i) Where the licensing authority is the executive authority of a local authority and such executive authority has taken the decision or passed the order without the previous concurrence of that local authority, to that local authority, and]

(ii) in any other case, to such officer or authority as the Government may, by notification, specify in this behalf.

<sup>2</sup>[(8) Any officer or authority appointed by the Government in this behalf by notification, may, either of his or its own motion or otherwise, call for the records of any case in which an order has been passed in appeal under sub-section (7) and pass such order thereon as he or it thinks fit:

Provided that no order shall be passed under this sub-section without giving the party who may be affected thereby an opportunity of being heard.]

6. *Licensing authority to permit construction and reconstruction of buildings, installation of machinery, etc., for cinematograph exhibitions.*—(1) Any person who intends-

(a) to use any place for the exhibition of cinematograph films; or

(b) to use any site for constructing a building thereon for the exhibition of cinematograph films; or

(c) to construct or reconstruct any building for such exhibition, or

(d) to install any machinery in any place where cinematograph exhibitions are proposed to be given, shall make an application in writing to the licensing authority for permission therefor, together with such particulars as may be prescribed, and any provision contained in the enactments specified in the Schedule as in force in any part of the State, or in the rules made under any of them, in so far as it relates to any of the matters specified above, shall not apply to any application made under this section.

(2) The licensing authority shall thereupon, after consulting such authority or officer as may be prescribed, <sup>3</sup>[and with the previous concurrence of the local authority concerned] grant or refuse permission and the provisions of sections 5, 10 and 11 relating to licences shall, so far as may be, apply to permission under this section:

1. Substituted by Act 22 of 1975 (w.e.f. 05.07.1975).

2. Substituted by Act 22 of 1975 (w.e.f. 05.07.1975).

3. Inserted by Act 22 of 1975 (w.e.f. 05.07.1975).

<sup>1</sup>[Provided that the previous concurrence of the local authority shall not be necessary for renewal of a permission under sub-section (1).]

7. *Power of Government to issue directions.*—The Government may, from time to time, issue directions to any licensee or to license generally, requiring the licensee or licensees to exhibit such film or class of films having a scientific or educative value, such films dealing with news and current events, such documentary films, indigenous films or such other films having special value to the public, as may have been approved by the Government in that behalf from time to time; and where any such directions have been issued, those directions shall be deemed to be additional conditions and restrictions subject to which the licence has been granted:

Provided that no direction issued under this section shall require the licensee to exhibit any such film or films exceeding two thousand feet at, or for more than one-fifth of the entire time taken for, any one show.

8. *Power of licensing authority to issue directions.*—The licensing authority may, from time to time issue directions to any licensee or to licensees generally requiring the licensee or licensees to exhibit in each show such slides of public interest as may be supplied by that authority:

Provided that no direction issued under this section shall require the licensee to exhibit more than three such slides at, or for more than four minutes in, any one show.

<sup>2</sup>[8A. *Power to enter place of cinematograph exhibition, to inspect licence or to prevent exhibition without licence or in violation of the provisions.*—(1) The licensing authority or any person authorised by him in writing in this behalf may enter at any reasonable time any place used for cinematograph exhibition and inspect the licence, if any, issued under this Act.

(2) If the licensing authority or the person so authorised is satisfied that—

(a) there is no such licence; or

(b) the place is used for cinematograph exhibition in violation of any of the provisions of this Act or the rules issued thereunder or of any condition or restriction upon or subject to which the licence has been granted, the licensing authority or such person may, without prejudice to any other action that may be taken in respect of such violation, prevent the further exhibition of cinematograph films in that place without licence or in violation of the provisions, conditions or restrictions aforesaid and may, for that purpose, use such force as may be necessary:

Provided that before preventing the further exhibition of cinematograph films in that place the licensee or other person exhibiting cinematograph films shall be given a reasonable opportunity to show cause against the proposed action.]

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1. Inserted by Act 22 of 1975 (w.e.f. 05.07.1975).

2. Inserted by Act 22 of 1960 (w.e.f. 13.10.1960).

9. *Power of Government of District Collector to suspend exhibition of films in certain cases.*—(1) The Government in respect of the whole of the State or any part thereof, and the District Collector within his jurisdiction may,—

(i) if they or he are or is of opinion that any film which is being or is about to be publicly exhibited is likely to cause a breach of the peace, or

(ii) for any other sufficient reason,  
by order, suspend the exhibition of the film; and during such suspension no person shall exhibit such film or permit it to be exhibited in any place in the State or any part or district thereof, as the case may be.

(2) No order shall be issued under sub-section (1) until the person concerned has been given a reasonable opportunity of showing cause against the order proposed to be issued in regard to him:

Provided that this sub-section shall not apply where the Government or the District Collector proposing to issue the order are or is satisfied that owing to any emergency or for some other reason to be recorded by them or him in writing it is not reasonably practicable to give to that person an opportunity of showing cause:

Provided further that a copy of the reasons recorded by the Government or the District Collector for issuing the order shall be communicated to the person concerned as soon as it becomes reasonably practicable to communicate the reasons to him.

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under sub-section (2), the decision thereon of the Government or the District Collector, as the case may be, shall be final.

(4) Where an order under sub-section (1) has been issued by the District Collector, a copy thereof, together with a statement of the reasons therefor, shall forthwith be forwarded by him to the Government, and the Government may, on a consideration of all the facts of the case, vary or discharge the order.

(5) An order issued under sub-section (1) shall remain in force for a period of two weeks from the date thereof, but the Government may, if they are of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period or periods not exceeding six weeks in the aggregate as they think fit:

Provided that the Government or the District Collector may review their own order.

10. *Penalties.*—(1) If the owner or person in charge of cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or of the rules made thereunder, not being rules made under clause (k) of sub-section (2) of section 13, or of the conditions and restrictions upon or subject to which any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

(2) If any person contravenes the provision of any rules made under clause (k) of sub-section (2) of section 13, he shall be punishable with fine which may extend to one hundred rupees.

(3) Where after a prosecution for an offence under sub-section (1) has been commenced, the licensing authority has reason to believe that the holder of the licence is again committing the offence or continues to commit it, the licensing authority may by notice warn the holder of the licence not to continue the offence. If the holder of the licence still persists in committing the offence, the licensing authority may suspend the licence pending the result of the prosecution.

11. *Power to revoke licence.*—(1) Where the holder of a licence has been convicted of an offence under section 10 of this Act or under section 7 of the Cinematograph Act, 1952 or under <sup>1</sup>[section 10 of the Kerala Local Authorities Entertainments Tax Act, 1961 (20 of 1961)], the licence may be revoked by the licensing authority by an order in writing.

(2) Where the holder of a licence has been convicted of an offence mentioned in sub-section (1) and the licence has not been revoked by the licensing authority, the District Collector may call for and examine the record of any proceeding taken under that sub-section, call for any report in connection therewith and may pass such order in reference thereto as he thinks fit:

Provided that no order shall be passed under this sub-section without giving an opportunity to show cause to the party who may be affected by the order.

12. *Power to revise proceedings under the Act.*—The Government may call for and examine the record of any proceeding taken under this Act, call for any report in connection therewith, make or cause to be made any further enquiry and may pass such order in reference thereto as they think fit:

Provided that no order shall be passed under this section without giving an opportunity to show cause to the party who may be affected by the order.

<sup>2</sup>[12A. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.]

13. *Power to make rules.*—(1) The Government may, by notification, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the terms, conditions and restrictions subject to which a licence may be granted under this Act and the fees to be paid in respect of such licence;

(b) the regulation of cinematograph exhibitions for securing the public safety;

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1. Substituted by Act 22 of 1975 (w.e.f. 05.07.1975).

2. Inserted by Act 22 of 1960 (w.e.f. 13.10.1960).

(c) the time within which and the conditions subject to which an appeal under sub-section (7) of section 5 may be preferred and the fees to be paid in respect of such appeal;

(d) the procedure to be followed by person submitting applications for permission under section 6;

(e) the documents and plans to be submitted together with such applications, and the fees to be paid on such applications;

(f) the matters to be taken into consideration by the licensing authority before approving the site for the construction of the building or the plans for the construction or reconstruction of the building, or the installation of machinery;

(g) the terms, conditions and restrictions subject to which the licensing authority may accord approval in respect of the matters referred to in clause (f);

(h) the action to be taken in cases of contravention of the terms, conditions and restrictions subject to which such approval was accorded;

(i) the procedure to be followed by the licensing authority before granting or refusing permission under section 6 and any other matter incidental thereto;

(j) the procedure for approval of films for the purposes of section 7;

(k) the prohibition or regulation of smoking in cinema theatres.

(3) All rules made under this Act shall be laid for not less than fifteen days before the Legislative Assembly, as soon as possible after they are made and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

14. *Power to exempt.*—The Government or any officer authorised in this behalf may, by order in writing, exempt, subject to such conditions and restrictions as they may impose:-

(i) any cinematograph exhibition to which public are not admitted or to which public are admitted without payment; or

(ii) any cinematograph exhibition provided for purposes which are educational, cultural or scientific, by any institution, society, committee or other organisation not conducted or established for profit; or

(iii) any place where a cinematograph exhibition referred to in clause (i) or (ii) is given,

from any of the provisions of this Act or of any rules made thereunder.

15. *Repeal.*— The Travancore Cochin Cinemas (Regulation) Act, 1955 (IX of 1955) and the Madras Cinemas (Regulation) Act, 1955 (IX of 1955) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed:

Provided that any licence, appointment, notification, order, rule, form or bye-law, issued or made or deemed to have been issued or made under the repealed Acts shall, so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been issued or made under the provisions of this Act, unless and until it is superseded by any licence, appointment, notification, order, rule, form or bye-law issued or made under this Act.

<sup>1</sup>[THE SCHEDULE  
(See section 6)]

1. The Kerala Panchayats Act, 1960 (32 of 1960)
2. The Kerala Municipalities Act, 1960 (14 of 1961)
3. The Kerala Municipal Corporations Act, 1961 (30 of 1961).]

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1. Substituted by Act 22 of 1975 (w.e.f. 05.07.1975).