



LAWS OF MALAYSIA

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Act 620

FILM CENSORSHIP ACT 2002

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FILM CENSORSHIP ACT 2002

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LAWS OF MALAYSIA**Act 620****FILM CENSORSHIP ACT 2002**

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LAWS OF MALAYSIA

Act 620

FILM CENSORSHIP ACT 2002

An Act relating to censorship of films and matters related thereto.

[1 April 2002, P.U. (B) 100/2002]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Film Censorship Act 2002.

(2) This Act shall come into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Non-application

2. (1) For the avoidance of doubt, it is hereby declared that this Act does not apply to the Federal Government or the Government of any State.

(2) This Act shall not apply to—

- (a) any film sponsored by the Federal Government or the Government of any State;
- (b) any film transhipped within Malaysia for delivery at a place outside Malaysia;
- (c) any film whether produced in or imported into Malaysia which the owner does not intend to exhibit in Malaysia or any film which is produced in Malaysia and intended by the owner for worldwide distribution, other than Malaysia, where a permit or a certificate of exemption has been granted under section 8 by the Board;

- (d) any film, not being obscene or lewd, which is in the possession of any person or his agent and is intended for his own private use and not for the purpose of sale, hire, distribution, public exhibition or circulation so long as the film remains in such possession.

(3) This Act shall not be construed as permitting the censorship of any film or film-publicity material published, displayed, circulated, exhibited, distributed or transmitted over the internet or over intranets.

Interpretation

3. In this Act, unless the context otherwise requires—

“film-publicity material” includes the original or duplicate of the whole or any part of a picture, photograph, poster, figure, handbill, slide, newspaper advertisement and any other form of advertisement printed or recorded on any material and intended to publicise a film;

“article” means apparatus or equipment used to make and process film or its duplicate, and includes a television set and video cassette recorder;

“prescribed” means prescribed by the Minister by regulations made under this Act;

“film” includes the original or duplicate of the whole or any part of—

- (a) a cinematograph film; and
- (b) a videotape, diskette, laser disc, compact disc, hard disc and other record,

of a sequence of visual images, being a record capable of being used as a means of showing that sequence as a moving picture, whether or not accompanied by sound;

“Appeal Committee” means the Appeal Committee established under section 22;

“Board” means the Board of Censors established under section 4;

“Minister” means the Minister responsible for matters pertaining to the censorship of films and film-publicity materials and, except in relation to the power to make regulations, includes the Deputy Minister;

“proper officer of customs” has the meaning assigned to that expression in the Customs Act 1967 [*Act 235*];

“Enforcement Officer” means an Enforcement Officer appointed under section 29 and includes an Assistant Enforcement Officer and a Junior Enforcement Officer;

“police officer” means a police officer, as defined under the Police Act 1967 [*Act 344*], not below the rank of an Inspector;

“owner”, in relation to a film or film-publicity material, means—

(a) a person who is entitled to the possession of the film or film-publicity material whether it is made or produced in Malaysia or imported from outside Malaysia; or

(b) any person who has the film or film-publicity material in his control, possession or ownership at the time in question;

“Chairman” means the Chairman of the Board appointed under paragraph 4(1)(a) and includes the Vice-Chairman and a temporary Chairman who executes the duties of the Chairman;

“alteration” includes the excision, addition, deletion, erasure, reconstruction or removal of scenes, dialogues or sound, in totality or in part, of a film, and also includes the insertion or amendment of subtitles in a film;

“Secretary” means the Secretary provided to the Board under subsection 4(3), and includes an Assistant Secretary;

“exhibition” includes the production of any music, speech, noise or other sound which accompanies the projection of a film, and “exhibit” shall be construed accordingly.

PART II

BOARD OF CENSORS

Establishment of Board

4. (1) There shall be a Board of Censors consisting of the following members who shall be appointed by the Minister:

- (a) a Chairman;
- (b) a Vice-Chairman; and
- (c) not less than two other persons.

(2) The provisions set out in the Schedule shall apply to the Board.

(3) The Board shall be provided with a Secretary and such number of Assistant Secretaries and clerical and other assistants as may be necessary.

(4) The Secretary, Assistant Secretaries and clerical and other assistants provided to the Board under subsection (3) shall also serve and assist the Appeal Committee.

PART III

CONTROL OF FILMS AND FILM-PUBLICITY MATERIALS

Obscene film

5. (1) No person shall—

- (a) have or cause himself to have in his possession, custody, control or ownership; or
- (b) circulate, exhibit, distribute, display, manufacture, produce, sell or hire,

any film or film-publicity material which is obscene or is otherwise against public decency.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of not less than ten thousand ringgit and not more than fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Unapproved film or film-publicity material

6. (1) No person shall—

- (a) have in his possession or in his custody or under his control; or
- (b) circulate, exhibit, distribute, display, manufacture, produce, sell or hire,

any film or film-publicity material which has not been approved by the Board.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction—

- (a) in respect of any film, to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both; or
- (b) in respect of any film-publicity material, to a fine of not less than one thousand ringgit and not more than ten thousand ringgit.

(3) This section shall not apply to any film or film-publicity material in respect of which a certificate of exemption has been issued under subsection 8(3) so long as any conditions subject to which the certificate is issued are complied with.

Detention of imported film and film-publicity material

7. (1) Where any film or film-publicity material is imported into Malaysia, the proper officer of customs to whom such film or film-publicity material is presented upon such importation or who discovers such importation shall detain the film or film-publicity material.

(2) Any film or film-publicity material detained under subsection (1) shall not be released unless a permit or a certificate of exemption issued under section 8 in respect of the film or film-publicity material is presented to a proper officer of customs having control of the film or material.

(3) Any person who, without a permit or a certificate of exemption issued under section 8, removes or causes to be removed from the control of any proper officer of customs any film or film-publicity material which has been imported into Malaysia commits an offence and shall be liable on conviction to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Permit, etc., for the purpose of section 7

8. (1) The Board may issue a permit for the purpose of section 7 if an application is made to the Board in the prescribed manner.

(2) A permit issued by the Board—

- (a) shall be valid only for such period as may be specified in the permit; and
- (b) shall specify the time and place for the submission of the film or film-publicity material for censorship.

(3) Notwithstanding subsections (1) and (2), the Board may issue a certificate of exemption for the purpose of section 7 in respect of any film or film-publicity material imported into Malaysia—

- (a) which the owner does not intend to exhibit in Malaysia, if the owner has notified the Board in writing that he does not intend to exhibit it in Malaysia or permit its exhibition in Malaysia, and has supplied the Board with a full description of the film or film-publicity material;
- (b) which the Board is satisfied is intended for private use; or
- (c) where such film has been made or produced in Malaysia by a local or foreign corporation or company with a view for worldwide distribution, other than Malaysia,

if an application is made by the owner in the prescribed manner.

(4) Without prejudice to subsection (2), the Board's power to issue a permit or a certificate of exemption under this section includes the power to impose conditions subject to which the permit or certificate is issued.

Submission of film for censorship

9. (1) The owner of a film shall submit the film in the prescribed manner for censorship to the Board without any alteration or excision and at his own risk and expense—

- (a) in the case of an imported film not exempted under subsection 8(3) which is released under section 7, within the time and at the place specified in the permit issued in respect of the film under subsection 8(1); or

(b) in the case of a film made or produced in Malaysia and intended to be exhibited in Malaysia, within fourteen days of the completion of such making or production.

(2) The owner of a film who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Decision of the Board

10. (1) Having viewed a film submitted to it for censorship, the Board may—

- (a) approve the film for exhibition without any alteration;
- (b) approve the film for exhibition with such alteration as it may require; or
- (c) refuse to approve the film for exhibition.

(2) The Secretary shall notify the owner of the film in writing of the decision of the Board made under subsection (1).

(3) In a case to which paragraph (1)(b) or (1)(c) applies, the Board shall furnish to the owner of the film in writing its reasons for requiring the alteration or for the refusal.

Alterations

11. (1) The alteration required by the Board under paragraph 10(1)(b) may be made—

- (a) by the Board; or
- (b) with the written consent and subject to any conditions of the Board, by the owner of the film.

(2) If any film is delivered to the owner of the film for the purpose of enabling the owner to make alterations to the film under paragraph 10(1)(b), the owner shall return the film to the Board—

- (a) within such time as the Board may specify; and
- (b) with any excised parts, if alteration by way of excision has been made.

(3) The owner of a film who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Retention and return of film

12. (1) Where the Board has refused to approve the exhibition of any film, it may retain the film for a period not exceeding three months from the date of its decision.

(2) Where the Board has refused to approve the exhibition of any imported film, the Board may order the return of the film if the Board is satisfied that the owner intends to re-export the film.

Disposal of unapproved film

13. If the Board refuses to approve the exhibition of any film, the Board may confiscate and destroy or otherwise dispose of such film—

- (a) after the expiry of the period mentioned in subsection 12(1); or
- (b) if there is any appeal made in accordance with section 21 to the Appeal Committee and if the Committee affirms the decision of the Board, after the decision of the Committee is communicated to the Chairman of the Board under section 24.

Certificate “A”

14. The Board shall certify that a film—

- (a) has been approved under paragraph 10(1)(a); or
- (b) has been altered as required by the Board,

by issuing a certificate which shall be known as ‘Certificate “A”’.

Classification of film

15. The Board may, before issuing a certificate under section 14, classify the film in such manner as may be prescribed.

Duplication of film

16. (1) Where a person intends to duplicate the whole or any part of a film which has been certified under section 14, he shall submit a statutory declaration to the Board stating—

- (a) his intention to make duplicate copies;
- (b) the precise number of duplicate copies he intends to make; and
- (c) that the duplicate copies are made from the original film approved and certified by the Board under sections 10 and 14 respectively.

(2) No person shall make a duplicate copy of the whole or any part of a film that has not been approved and certified by the Board under sections 10 and 14 respectively.

(3) Any person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Certificate “B”

17. The Board shall issue a certificate which shall be known as ‘Certificate “B” ’ for every duplicate copy made in accordance with section 16.

Display of mark of approval, certificate and classification

18. (1) The owner of a film approved by the Board for exhibition shall affix on the film the Board’s mark of approval.

(2) There shall be displayed in the prescribed manner in respect of every film approved by the Board for exhibition—

- (a) the certificate in respect of the film;
- (b) the classification of the film; and
- (c) the name and address of the person who exhibits, distributes, displays or sells, as the case may be, the film.

(3) The owner of a film who contravenes subsection (1) commits an offence.

- (4) Any person who—
- (a) exhibits, distributes or sells a film in contravention of subsection (2); or
 - (b) displays in respect of a film a classification different from that given by the Board to the film,

commits an offence.

(5) A person who is convicted of an offence under this section shall be liable to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Submission of film-publicity material

19. (1) Every film-publicity material shall be submitted in the prescribed manner to the Board for its approval.

(2) Sections 10 and 11 shall apply to any film-publicity material submitted to the Board for its approval as if for the word “film” in those sections the words “film-publicity material” had been substituted.

(3) Any person who contravenes subsection 11(2) read together with subsection (2) of this section commits an offence.

(4) A person who is convicted of an offence under this section shall be liable to a fine of not less than one thousand ringgit and not more than ten thousand ringgit.

Mark of approval on film-publicity material

20. (1) The Board shall affix its mark of approval on any film-publicity material which has been approved by the Board or which has been altered as required by the Board.

(2) Where multiple copies of any film-publicity material are submitted for the Board’s approval, the Board shall affix its mark of approval on the first copy only and duplicate copies may be made of such first copy.

(3) Any person who exhibits any film-publicity material or any duplicate copy of such material without displaying the Board's mark of approval in respect of such material commits an offence and shall on conviction be liable to a fine of not less than one thousand ringgit and not more than ten thousand ringgit.

PART IV

APPEAL

Appeal

21. (1) The owner of any film or film-publicity material who is aggrieved by any decision of the Board may, within thirty days from the date on which he is notified of the decision and on payment of the prescribed fee, appeal to the Appeal Committee by lodging with the Secretary a written notice of appeal.

(2) The notice of appeal may contain representations of the owner.

Appeal Committee

22. (1) There shall be an Appeal Committee consisting of the following members:

- (a) a Chairman who shall be appointed by the Minister;
 - (b) a Vice-Chairman who shall be appointed by the Minister;
 - (c) the Inspector General of Police, or his representative;
 - (d) the Secretary General of the Ministry responsible for matters pertaining to the censorship of films and film-publicity materials, or his representative;
 - (e) the Secretary General of the Ministry responsible for matters pertaining to the regulation of broadcasting, or his representative;
 - (f) the Director General of Education, or his representative;
- and

(g) thirteen other members who shall be appointed by the Minister.

(2) The provisions set out in the Schedule shall apply to the Appeal Committee.

Powers of the Appeal Committee

23. (1) The Appeal Committee shall have the power to confirm, vary or reverse the decision of the Board.

(2) The decision of the Appeal Committee shall be final and shall not be questioned in any court of law.

Board must give effect to Appeal Committee's decision

24. (1) The Secretary shall inform the Chairman of the Board of the decision of the Appeal Committee.

(2) Upon being informed of the decision of the Appeal Committee in respect of any film or film-publicity material, the Chairman of the Board shall take such action, if any, as is necessary to give effect to the decision.

PART V

POWERS OF THE MINISTER

Directions

25. (1) The Minister may issue to the Board or the Appeal Committee directions of a general character consistent with the provisions of this Act as to the policy of the Government relating to public exhibition of films and film-publicity materials.

(2) The Board or the Appeal Committee, as the case may be, shall give effect to the directions referred to in subsection (1).

Prohibition

26. Notwithstanding any other provisions of this Act, if the Minister is of the opinion that the exhibition, display, distribution, possession, circulation or sale of any film or any film-publicity material would be contrary to public interest, he may, in his absolute discretion, by order published in the *Gazette*, prohibit the exhibition, display, distribution, possession, circulation or sale of that film or film-publicity material.

Regulations

27. The Minister may make such regulations as may be expedient or necessary for the carrying out of the provisions of this Act, including regulations prescribing—

- (a) the manner for submitting films and film-publicity materials to the Board for the purpose of censorship;
- (b) fees for any matter under this Act;
- (c) the classification of films;
- (d) the procedure in relation to the disposal of unclaimed films;
- (e) offences which may be compounded.

Exemption

28. The Minister may, subject to any condition that he may impose—

- (a) exempt any film or class of films, including those which are sponsored by the Federal Government pursuant to a treaty, agreement or arrangement to which the Federal Government is a party, from the application of any of the provisions of this Act or regulations made under this Act; and
- (b) if he is satisfied that it would not be contrary to the public interest or to the interest of the country to do so, exempt any person or any film or film-publicity material from any provisions of this Act or regulations made under this Act.

PART VI

POWERS RELATING TO ENFORCEMENT, SEIZURE, ARREST,
*ETC.***Appointment of Enforcement Officers**

29. The Minister may appoint such number of Enforcement Officers as may be necessary for the purposes of this Act and regulations made under this Act.

Power to investigate

30. An Enforcement Officer or a police officer shall have the power to investigate any offence under this Act.

Authority card

31. (1) There shall be issued to each Enforcement Officer an authority card which shall be signed by the Minister.

(2) Whenever an Enforcement Officer exercises any of the powers under this Act or any regulations made under this Act, he shall on demand produce to the person against whom the power is being exercised the authority card issued to him under subsection (1).

Search and seizure with warrant

32. (1) If it appears to a Magistrate, upon written information on oath and after such enquiry as he considers necessary, that there is reasonable cause to believe that—

(a) any premises has been used or are about to be used for;
or

(b) there is in any premises evidence necessary to the conduct of an investigation into,

the commission of an offence under this Act or any regulations made under this Act, the Magistrate may issue a warrant authorizing the Enforcement Officer or police officer named therein, at any reasonable time by day or by night and with or without assistance, to enter the premises, if need be by force.

(2) A warrant issued under subsection (1) may authorize the Enforcement Officer or police officer to search the premises for, and to seize and remove from the premises—

- (a) any film, film-publicity material, book, document or other thing in respect of which an offence has or is suspected to have been committed; and
- (b) any film, film-publicity material, book, document or other thing that is reasonably believed to furnish evidence of the commission of the offence.

(3) An Enforcement Officer or a police officer acting under subsection (1) or (2) may—

- (a) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry into the premises;
- (b) remove by force any obstruction to entry, search, seizure or removal as he is empowered to effect under subsection (1) or (2); and
- (c) detain every person found in the premises until the place has been searched.

Search and seizure without warrant

33. Whenever an Enforcement Officer or a police officer has reasonable grounds to believe that any film or film-publicity material in respect of which an offence under this Act or any regulations made under this Act has been committed is likely to be found in or on any place, premises, person, vehicle, vessel or conveyance and that by reason of delay in obtaining a warrant under section 32 the object of the search is likely to be frustrated, he may, without warrant, with such assistance and force as is necessary—

- (a) enter and search that place or those premises;
- (b) stop and search that person, vehicle, vessel or conveyance; and
- (c) seize any film or film-publicity material or other thing which may be found and may be evidence of the commission of such offence.

Search of persons

34. No person shall be searched except by another person of the same gender, and such search shall be conducted with strict regard to decency.

Seizure of film, etc.

35. Without prejudice to subsection 32(2) and section 33, any film, film-publicity material, book, document or other thing that an Enforcement Officer or a police officer reasonably suspects has been used or will be used in the commission of any offence under this Act or any regulations made under this Act may be seized and detained by the Enforcement Officer or police officer.

Notice of seizure

36. (1) Where any seizure is made under this Part, the Enforcement Officer or police officer making the seizure shall prepare a list of every film, film-publicity material, book, document or other thing seized and of the place in which it is found and shall sign the list.

(2) The list prepared in accordance with subsection (1) shall be delivered immediately to the occupant of the place or premises where the film, film-publicity material, book, document or other thing seized is found.

(3) Where the seizure is made in or from any place or premises which are unoccupied, the Enforcement Officer or police officer making the seizure shall whenever possible post a list of the things seized conspicuously at the place or premises.

(4) Where any film, film-publicity material, book, document or other thing is seized otherwise than in or from any place or premises, the Enforcement Officer or police officer making the seizure shall give a notice in writing of the seizure and the grounds of the seizure to the owner of the film, film-publicity material, book, document or other thing seized by delivering a copy of such notice to the owner in person or by post at his place of business or residence.

(5) A notice under subsection (4) need not be given where the seizure is made in the presence or with the knowledge of the owner.

Power of arrest

37. (1) Any Enforcement Officer may arrest without warrant any person whom he reasonably believes has committed or is attempting to commit an offence under this Act or any regulations made under this Act.

(2) An Enforcement Officer making an arrest under subsection (1) shall without unnecessary delay make over the person so arrested to the nearest police officer or, in the absence of a police officer, take such person to the nearest police station, and thereafter the person shall be dealt with as is provided for by the law relating to criminal procedure for the time being in force as if he had been arrested by a police officer.

Power to require attendance of persons acquainted with case

38. (1) An Enforcement Officer making an investigation under this Act or any regulations made under this Act may, by order in writing, require the attendance before himself of any person who appears to the Enforcement Officer to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If any person refuses to attend as required by an order made under subsection (1), the Enforcement Officer may report his refusal to a Magistrate who shall issue a warrant to secure the attendance of such person as may be required by the order.

Examination of persons acquainted with case

39. (1) An Enforcement Officer making an investigation under this Act or any regulations made under this Act may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) A person examined under subsection (1) shall be legally bound to answer all questions relating to such case put to him by the Enforcement Officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) An Enforcement Officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb print, as the case may be, after—

(a) it has been read to him in the language in which he made it; and

(b) he has been given an opportunity to make any correction he may wish.

(6) If the person making a statement under this section refuses to sign or affix his thumb print on the statement, the Enforcement Officer shall endorse on the statement under his hand the fact of such refusal and the reason for the refusal, if any, stated by the person examined.

Forfeiture of film, etc., seized

40. (1) Any film, film-publicity material, book, document or other thing seized under this Act shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any film, film-publicity material, book, document or other thing seized under this Act shall be made by the court before which the prosecution with regard to it has been held.

(3) An order for forfeiture under subsection (2) shall be made if it is proved to the satisfaction of the court that an offence under this Act or any regulations made under this Act has been committed and that the film, film-publicity material, book, document or other thing was the subject-matter of or used in the commission of the offence, even though no person has been convicted of such offence.

(4) If there is no prosecution with regard to any film, film-publicity material, book, document or other thing seized under this Act, such film, film-publicity material, book, document or other thing shall be taken and deemed to be forfeited at the expiration of a period of one calendar month from the date of service of a notice to the last-known address of the person from whom the film, film-publicity material, book, document or other thing was seized indicating that there is no prosecution in respect of such film, film-publicity material, book, document or other thing, unless before the expiration of that period a claim thereto is made in the manner set out in subsections (5), (6), (7) and (8).

(5) Any person asserting that he is the owner of the film, film-publicity material, book, document or other thing referred to in subsection (4) and that it is not liable to forfeiture may personally or by his agent authorized in writing, give written notice to the Enforcement Officer or police officer in whose possession such film, film-publicity material, book, document or other thing is held that he claims the film, film-publicity material, book, document or other thing.

(6) On receipt of the notice referred to in subsection (5), the Enforcement Officer or the police officer shall refer the matter to a Magistrate for a decision.

(7) The Magistrate to whom a matter is referred under subsection (6) shall issue a summons requiring the person asserting that he is the owner of the film, film-publicity material, book, document or other thing and the person from whom it was seized to appear before the Magistrate, and when they appear or when they fail to appear, due service of the summons having been proved, the Magistrate shall proceed to examine the matter.

(8) If it is proved that an offence under this Act or any regulations made under this Act has been committed and that the film, film-publicity material, book, document or other thing referred to in subsection (7) was the subject-matter of or was used in the commission of such offence, the Magistrate shall order the film, film-publicity material, book, document or other thing to be forfeited and shall, in the absence of such proof, order its release.

(9) Any film, film-publicity material, book, document or other thing forfeited or deemed to be forfeited shall be delivered to an Enforcement Officer or a police officer and shall be disposed of in accordance with the directions of the Magistrate.

Cost of holding film, etc., seized

41. Where any film, film-publicity material, book, document or other thing seized under this Act is held in the custody of the Government pending the completion of any proceedings in respect of an offence under this Act or any regulations made under this Act, the cost of holding such film, film-publicity material, book, document or other thing in custody shall, in the event of any person being found guilty of an offence under this Act or any regulations made under this Act in relation to such film, film-publicity material, book, document or other thing, be a debt due to the Government by such person and shall be recoverable accordingly.

No costs or damages arising from seizure can be recovered

42. No person shall, in any proceedings before any court in respect of the seizure of any film, film-publicity material, book, document or other thing seized in the exercise or the purported exercise of any powers conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

PART VII**MISCELLANEOUS****Prosecution**

43. No prosecution in respect of any offence under this Act or any regulations made under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Jurisdiction of court of First Class Magistrate

44. Notwithstanding anything contained in any written law to the contrary, a court of a First Class Magistrate shall have the jurisdiction to try any offence under this Act and to award the full punishment for any such offence.

Offences committed by body corporate

45. Where a person charged with an offence under this Act is a body corporate, every person who, at the time of the commission of such offence, was a managing director, manager or other similar officer of such body corporate, may be charged jointly in the same proceedings with the body corporate, and where the body corporate is convicted of the offence charged, every such managing director, manager or officer shall also be deemed to have committed the offence and shall be liable to the same penalty as the body corporate, unless he proves that the offence was committed without his knowledge, consent or connivance or that he took reasonable precautions to prevent its commission.

Compounding of offences

46. (1) The Secretary may compound any compoundable offence by making a written offer to compound the offence to any person suspected of having committed the offence upon payment to the Board of such amount of money, not exceeding fifty percent of the maximum fine for that offence, within the time specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer under subsection (1) is not paid within the time specified in the offer or within such extended period as the Board may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall be instituted after that in respect of the offence against the person to whom the offer to compound was made.

(5) In this section, “compoundable offence” means an offence which has been prescribed by regulations made under this Act to be an offence which may be compounded.

Presumption

47. For the purpose of all proceedings under this Act or any regulations made under this Act—

- (a) a person shall, until the contrary is proved, be deemed to be the occupier of any premises, or the owner of any vehicle, vessel or conveyance if he has, or appears to have, the care or management of such premises, vehicle, vessel or conveyance;
- (b) if any film or film-publicity material that has not been approved by the Board or in respect of which an offence under this Act or any regulations made under this Act has been committed is found in any premises, vehicle, vessel or conveyance, it shall be presumed, until the contrary is proved, that the film or film-publicity material is there with the knowledge of the occupier of the premises, or the owner of the vehicle, vessel or conveyance;
- (c) if any film which has not been approved by the Board is found in any premises, vehicle, vessel or conveyance, the name and address of the person found in or on any part of the film or its cover shall be presumed, until the contrary is proved, to be the name and address of the owner of the film who intends to exhibit, distribute, display, circulate, hire or sell the film.

Decision under the Act not subject to appeal or review

48. No decision of the Minister, the Board or the Appeal Committee under this Act or any regulations made under this Act shall be subject to appeal or review by any court on any ground.

Public servants

49. Each of the following persons shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*]:

- (a) members of the Board and the Appeal Committee;
- (b) the Secretary and every Assistant Secretary;
- (c) Enforcement Officers; and
- (d) persons employed in the office of the Board and the office of the Appeal Committee.

Immunity from legal action

50. No legal proceeding, prosecution or other form of litigation may be instituted or maintained against—

- (a) any member of the Board;
- (b) any member of the Appeal Committee;
- (c) the Secretary or any Assistant Secretary;
- (d) any Enforcement Officer; or
- (e) any person employed in the office of the Board or the office of Appeal Committee,

in his personal capacity in respect of any *bona fide* act, decision or statement done or made for the purpose of or incidental to the implementation or proposed implementation of the provisions of this Act or regulations made under this Act.

No liability for loss or damage to film or film-publicity material

51. Other than for loss or damage caused by some wilful act on the part of the Board or Appeal Committee or any member of the Board or Appeal Committee, or any officer or other person employed in the office of the Board or Appeal Committee, the Board, the Appeal Committee and the Government shall not be liable for the loss of, or any damage to, any film or film-publicity material submitted to the Board for approval or to the Appeal Committee on an appeal.

Disposal of unclaimed films

52. (1) The Board may order any film or film-publicity material to be destroyed or otherwise disposed of as it thinks fit if the film or film-publicity material still remains in its possession after a period of two years has lapsed since—

- (a) the date of its detention under section 7;
- (b) if the film or film-publicity material is approved under section 10, the date the Board notifies the owner under subsection 10(2); or
- (c) where any alteration of a film or film-publicity material is required under section 11, the date the Board notifies the owner to take possession of the film or film-publicity material.

(2) For the purposes of subsection (1), any film or film-publicity material under the control of a proper officer of customs by virtue of section 7 shall be deemed to be in the possession of the Board.

PART VIII

REPEAL, TRANSITIONAL AND SAVING PROVISIONS

Repeal

53. The Film (Censorship) Act 1952 [Act 35] (in this Part referred to as the “repealed Act”) is repealed.

Board and Committees

54. (1) The Board of Film Censors, the Assessment Committee and the Committee of Appeal established by the repealed Act are dissolved.

(2) Notwithstanding subsection (1), every person who was a member of the Board of Film Censors and the Committee of Appeal under the repealed Act immediately prior to the date of coming into operation of this Act shall, on that date—

- (a) in the case of a member of the Board of Film Censors, be deemed to have been appointed as a member of the Board established under section 4; and
- (b) in the case of a member of the Committee of Appeal, be deemed to have been appointed as a member of the Appeal Committee established under section 22,

and shall continue in such appointment until the expiry of the term for which he was appointed under the repealed Act.

(3) Notwithstanding subsection (1), any matter pending before the Board of Film Censors, the Assessment Committee and the Committee of Appeal under the repealed Act shall be disposed of by that Board and those Committees under the repealed Act as if the Board and the Committees had not been dissolved and the repealed Act had not been repealed.

Continuance of laws

55. All subsidiary legislation made or deemed to have been made under the repealed Act and in operation immediately before the date of coming into operation of this Act shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made under this Act and shall continue to be in operation until they expire or are revoked or replaced.

References to the repealed Act

56. Any reference in any written law to the repealed Act or the Board of Film Censors or the Committee of Appeal established under the repealed Act shall, unless the context otherwise requires, be construed as references to this Act or the Board or the Appeal Committee established under this Act, as the case may be, and any expression importing such a reference shall be construed accordingly.

SCHEDULE

[Subsections 4(2) and 22(2)]

Meaning of “*ex officio* member”

1. In this Schedule, an “*ex-officio* member” of the Appeal Committee is a member of the Appeal Committee other than a member appointed under paragraph 22(1)(a), (b) or (g).

Persons who cannot be members of the Board

2. (1) Subject to subparagraph (2), the following persons are not qualified to be appointed, or to remain, as members of the Board:

- (a) a member of either House of Parliament or the Legislative Assembly of a State;
- (b) a member or an officer or an employee of any local authority or of any body corporate or other authority which is established by law for a public purpose;
- (c) a member of any trade union or any body or association affiliated to a trade union.

(2) No member of the public service shall be appointed as the Chairman or Vice-Chairman of the Board unless he is on leave prior to retirement.

Persons who cannot be members of the Board or Committee

3. Without prejudice to paragraph 2, the following persons are not qualified to be appointed, or to remain, as members of the Board or the Appeal Committee:

- (a) a bankrupt;
- (b) a judgement debtor;
- (c) a person who has been found or declared to be of unsound mind;
or
- (d) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude.

Tenure of office

4. A member of the Board or a member of the Appeal Committee other than an *ex-officio* member shall be appointed for a term of three years or such shorter term as the Minister may specify, and upon the expiry of that term he is eligible for reappointment.

Resignation

5. A member of the Board or a member of the Appeal Committee other than an *ex-officio* member may, at any time, resign his office by letter addressed to the Minister.

Revocation

6. The Minister may revoke the appointment of a member of the Board or a member of the Appeal Committee other than an *ex officio* member without assigning any reason for the revocation.

Termination of appointment

7. The appointment of a member of the Board or a member of the Appeal Committee other than an *ex officio* member terminates—

- (a) on his death;
- (b) if he resigns in accordance with paragraph 5;
- (c) if his appointment is revoked under paragraph 6; or
- (d) if he fails to attend three consecutive meetings of the Board or the Appeal Committee without the leave of the Chairman of the Board or the Committee, as the case may be.

Quorum of the Board

8. The quorum at all meetings of the Board shall be three, including the person presiding over the meeting.

Quorum of the Appeal Committee

9. The quorum at all meetings of the Appeal Committee shall be six, including the person presiding over the meeting.

Person to preside over meeting

10. (1) The Chairman, and in the absence of the Chairman, the Vice-Chairman of the Board or the Appeal Committee, as the case may be, shall preside over the meetings of the Board or the Appeal Committee.

(2) In the absence of the Chairman and the Vice-Chairman at any meeting of the Board or the Appeal Committee, the meeting shall be presided over by a member elected by the members present.

Casting vote

11. At any meeting of the Board or the Appeal Committee, the person presiding over the meeting shall have a casting vote in addition to his deliberative vote.

Allowances and privileges

12. The members of the Board and the Appeal Committee shall be paid and accorded such allowances and privileges as may be determined by the Minister.

Delegation of powers and duties of the Board

13. (1) The Board may delegate, either generally or in any particular case, all or any of the powers conferred or duties imposed upon it by this Act to a committee consisting of any three members of the Board.

(2) The Chairman of the Board may appoint any of the members of the committee referred to in subparagraph (1) to be the chairman of such committee.

(3) No delegation under subparagraph (1) shall prohibit the Board from exercising any power of performing any duty so delegated.

Signification of decisions

14. It shall be lawful for all decisions of the Board or the Appeal Committee or a committee referred to in paragraph 13 to be signified under the hand of the Secretary or an Assistant Secretary, and every decision so signified shall be deemed to be the decision of the Board, the Appeal Committee or the committee, as the case may be.

Declaration of interest

15. (1) A member of the Board or the Appeal Committee who has, directly or indirectly, any interest, pecuniary in nature or otherwise, by himself or his partner, in any matter to be considered by the Board or Appeal Committee or a committee referred to in paragraph 13 shall declare the nature of that interest at every meeting at which the matter is considered.

(2) A declaration under subparagraph (1) shall be recorded in the minutes of the Board, Appeal Committee or committee and, unless specifically authorized by the person presiding over the meeting, such member shall take no part in the deliberation or decision of the Board, Appeal Committee or committee relating to the matter.

Validity of acts, proceedings and decision of the Board and Committee

16. No act done or proceeding taken or decision made by the Board or the Appeal Committee shall be questioned on the ground of—

- (a) a vacancy in the membership of the Board or the Appeal Committee;
- (b) a defect in the constitution of the Board or the Appeal Committee;
- (c) a contravention by a member of the Board or the Appeal Committee of paragraph 15; or
- (d) any omission, defect or irregularity not affecting the merits of the case.

Board and Committee may regulate their own procedures

17. Subject to this Act and the regulations made under this Act, the Board and the Appeal Committee shall regulate their own procedures.

LAWS OF MALAYSIA
Act 620
FILM CENSORSHIP ACT 2002

LIST OF AMENDMENTS

Amending law	Short title	In force from
	– NIL –	

LAWS OF MALAYSIA
Act 620
FILM CENSORSHIP ACT 2002

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
	- NIL -	

