
CHAPTER 384
THEATRES AND CINEMAS

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CHAPTER 384**THEATRES AND CINEMAS****An Act to control theatres and cinemas and the public performance and exhibition of plays and films.***17 of 1975**7 of 1980**25 of 1995**[Assent 12th September, 1975]
[Commencement 15th July, 1976]***PART I
PRELIMINARY**

- Act.
1. This Act may be cited as the Theatres and Cinemas Act. Short title.
 2. In this Act — Interpretation.
 - “Board” has the meaning assigned thereto in section 5;
 - “film” means any record, however made, of a sequence of visual images which is capable of being used as a means of showing that sequence as a moving picture;
 - “Minister” means the Minister responsible for Theatres, Cinemas and Films;
 - “play” means —
 - (a) any dramatic piece, whether involving improvisation or not, which is given wholly or in part by one or more persons actually present and performing, and in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or acting, involves the playing of a role; and
 - (b) any ballet given wholly or in part by one or more persons actually present and performing, whether or not it falls within paragraph (a) of this definition;
 - “premises” includes any place;
 - “prescribed” means prescribed by regulations made under section 12;

“public performance or exhibition” means —

- (a) a performance of a play, or, as the case may be, an exhibition of a film, in a public place; or
- (b) a performance of a play, or, as the case may be, an exhibition of a film, which the public, or any section thereof, are permitted to attend, whether on payment or otherwise;

“public place” has the same meaning as in section 4 of the Penal Code.

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PART II LICENSING OF PREMISES

Licensing of premises for performance of plays and showing of films.

3. (1) Subject to the following provisions of this Act, no premises shall be used for the purpose of any public performance or exhibition except under and in accordance with the terms of a licence granted under this Act by the Board.

First Schedule.

(2) The provisions of the First Schedule shall have effect with respect to licences under this Act.

Enforcement of section 3.

4. (1) If a public performance or exhibition is given at any premises in respect of which a licence under this Act is not in force —

- (a) any person concerned in the organisation or management of that performance or exhibition; and
- (b) any other person who, knowing or having reasonable cause to suspect that such a performance or exhibition would be given at those premises without such a licence being in force in respect thereof —
 - (i) allowed the premises to be used for the giving of that performance or exhibition; or
 - (ii) let the premises, or otherwise made the premises available, to any person by whom the premises were used for the giving of that performance or exhibition,

shall be guilty of an offence.

(2) If, while a licence under this Act is in force in respect of any premises, any of the terms, conditions or restrictions on or subject to which the licence is held is contravened or not complied with —

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- (a) the holder of the licence; and
 - (b) any other person who, knowing or having reasonable cause to suspect that the premises would be used otherwise than in accordance with those terms, conditions and restrictions —
 - (i) allowed the premises to be so used; or
 - (ii) let the premises, or otherwise made the premises available, to any person by whom the premises were so used,

shall be guilty of an offence:

Provided that, where the holder of the licence is charged with an offence under this subsection, it shall be a defence to prove that the contravention or failure to comply took place without his consent or connivance and that he exercised all due diligence to prevent it.

(3) A person guilty of an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months, or both.

(4) If the holder of a licence under this Act is convicted of an offence under subsection (2), then, subject to section 10, the Board may revoke the licence:

Provided that the licence shall not be revoked under this subsection by virtue of the holder's conviction as aforesaid unless either —

- (a) the time for bringing an appeal against the conviction has expired without such an appeal having been brought; or
- (b) such an appeal has been brought and abandoned or finally determined otherwise than by the quashing of the conviction.

PART III REGULATION OF PLAYS AND FILMS

5. (1) There shall be established for the purpose of this Act a Board to be called The Bahamas Plays and Films Control Board which shall have in New Providence and the rest of The Bahamas the powers conferred by this Act on a Board; and is hereafter in this Act referred to as the Board.

Establishment of
Plays and Films
Control Board.

(2) Notwithstanding the provisions of subsection (1), the Minister may from time to time appoint other Boards as he may think necessary.

Second Schedule.

(3) The provisions of the Second Schedule shall have effect with respect to the constitution of the Board and otherwise in relation thereto.

Plays and films to be approved.

6. (1) Subject to the following provisions of this Act, no public performance or exhibition shall be given otherwise than in circumstances approved by the Board pursuant to regulations made under subsection (2).

(2) The Minister shall by regulations make provision for the grant or refusal by the Board of approval under subsection (1), and such regulations may contain different provision for such grant or refusal under different circumstances.

(3) If a public performance or exhibition is given in contravention of subsection (1) —

(a) any person concerned in the organisation or management of that performance or exhibition; and

(b) any other person who, knowing or having reasonable cause to suspect that such a performance or exhibition would be given as aforesaid —

(i) allowed any premises to be used for the giving of that performance or exhibition; or

(ii) let premises, or otherwise made premises available, to any person by whom the said premises were used for the giving of that performance or exhibition,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months, or both.

Prohibition of presentation of obscene plays or films.

7. (1) Subject to sections 8 and 9, if an obscene performance of a play or an exhibition of an obscene film is given, whether in public or private, any person who (whether for gain or not) presented or directed that performance or presented that exhibition shall be guilty of an offence and liable —

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- (a) on summary conviction, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months;
 - (b) on conviction on information, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years, or both.

(2) A prosecution on information for an offence under this section shall not be commenced more than two years after the commission of the offence.

(3) No person shall be proceeded against in respect of a performance of a play or the exhibition of a film or anything said or done in the course of such a performance or exhibition —

- (a) for an offence at common law where it is of the essence of the offence that the performance or exhibition or, as the case may be, what was said or done, was obscene, indecent, offensive, disgusting or injurious to morality; or
- (b) for an offence under section 4 of, and paragraph 6 of the Second Schedule to, the Vagrancy Act consisting of exposing to view in a public place an indecent exhibition.

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and no person shall be proceeded against for an offence at common law of conspiring to corrupt public morals, or to do any act contrary to public morals or decency in respect of an agreement to present or give a performance of a play or an exhibition of a film, or to cause anything to be said or done in the course of such a performance or exhibition.

(4) For the purpose of this section a performance of a play or an exhibition of a film shall be deemed to be obscene if, taken as a whole, its effect was such as to tend to deprave and corrupt persons who were likely, having regard to all relevant circumstances, to attend or see it.

8. (1) A person shall not be convicted of an offence under section 7 if it is proved that the giving of the performance or exhibition in question was justified as being for the public good on the ground that it was in the interest of drama, ballet or any other art, or of literature or learning.

Defence of public good.

(2) It is hereby declared that the opinion of experts as to the artistic, literary or other merits of a performance of a play or of a film may be admitted in any proceedings for an offence under section 7 either to establish or to negative the said ground.

Saving for certain performances and exhibitions in private dwellings.

9. Nothing in section 7 or 8 shall apply in relation to a performance of a play or an exhibition of a film on a domestic occasion in a private dwelling.

PART IV MISCELLANEOUS

Appeals.

10. (1) Any of the following persons, that is to say —
- (a) an applicant for an approval under section 6 whose application is refused;
 - (b) an applicant for the grant, renewal or transfer of a licence under this Act in respect of any premises whose application is refused;
 - (c) an applicant for the variation of any terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
 - (d) a holder of any such licence whose licence is revoked by the Board under subsection (4) of section 4, or who is aggrieved by any term, condition or restriction or subject to which the licence is held,

may, at any time before the expiration of the period of twenty-one days beginning with the relevant date, appeal to the Minister and the Minister may make such order as he thinks fit, and that order shall be final.

In this subsection “the relevant date” means the date on which the person in question is notified of the refusal of his application, the revocation of his licence or the imposition of the term, condition or restriction by which he is aggrieved, as the case may be.

(2) Where a licence under this Act is revoked under subsection (4) of section 4 or an application for the renewal of such a licence is refused, the licence shall be deemed to remain in force —

- (a) during, any period within which an appeal under this section may be brought and, if such an appeal is brought within the period for doing so, until the determination or abandonment of the appeal; and
- (b) where an appeal under this section relating to such a refusal as aforesaid is successful, until the licence is renewed by the Minister.

(3) In the case of an appeal in relation to an application of which, in accordance with subparagraph (1) of paragraph 2 of the First Schedule, notice was required to be given to the Commissioner of Police, notice of the appeal shall be given to the Commissioner as well as to any other person to whom it is required to be given apart from this subsection.

First Schedule.

11. (1) If a magistrate is satisfied by information on oath that there are reasonable grounds for suspecting, as regards any premises specified in the information —

Powers of entry and inspection.

- (a) that an offence under subsection (1) of section 3 is being or will be committed in respect of those premises; or
- (b) that a performance of a play or an exhibition of a film is to be given at those premises, and that an offence under section 6 or 7 is likely to be committed in respect of that performance or exhibition,

the magistrate may issue a warrant under his hand empowering any police officer at any time within fourteen days from the date of the warrant to enter the premises and —

- (i) in a case falling within paragraph (a) of this subsection, to inspect the premises;
- (ii) in a case falling within paragraph (b) of this subsection, to attend any performance of a play or any exhibition of a film which may be given there.

(2) Any police officer may, at all reasonable times enter any premises in respect of which a licence under this Act is in force at which he has reason to believe that a performance of a play or an exhibition of a film is being or is about to be given and inspect them with a view to seeing whether the terms, conditions or restrictions on or subject to which the licence is held are complied with.

Regulations

12. (1) The Minister may by regulations make provision for all or any of the following matters —

- (a) the fire-fighting equipment to be maintained, and other precautions to be taken for the prevention of fire, on licensed premises;
- (b) the regulation of seating arrangements, the prevention of obstruction in gangways, corridors and exits, and the employment of supervisory staff, in licensed premises during such time as members of the public are thereon;
- (c) the control, storage and use of any inflammable substance on licensed premises;
- (d) the preservation of order on licensed premises;
- (e) restricting and controlling the exhibition in cinemas and theatres of advertisements; and
- (f) any other matter or thing authorised or required by this Act to be prescribed.

(2) In this section “licensed premises” means premises in respect of which a licence under this Act is in force.

FIRST SCHEDULE (Section 3(2))

PROVISIONS WITH RESPECT TO LICENCES

Grant, renewal
and transfer of
licences.

1. (1) The Board may grant to any applicant and from time to time renew a licence under this Act for the use of any premises specified therein for any purpose referred to in subsection (1) of section 3 on such terms and conditions and subject to such restrictions as may be so specified.

(2) Subject to subparagraph (3) of this paragraph, paragraph 4 of this Schedule and subsection (2) of section 10; a licence granted under this Act shall, unless previously cancelled under paragraph 5 of this Schedule or revoked under subsection (4) of section 4, remain in force for one year or for such shorter period specified in the licence as the Board may think fit.

(3) The Board may grant a licence under this Act in respect of such one or more particular occasions only as may be specified in the licence.

(4) Where a licence has been granted under this Act to any person, then the Board may, if it thinks fit, transfer that licence to any other person on the application of that person or the holder of the licence.

2. (1) An applicant for the grant or transfer of a licence under this Act in respect of any premises shall give to the Board and to the Commissioner of Police not less than twenty-one days notice of his intention to make the application and furnish such particulars and give such other notices as may be prescribed.

Notice in respect of applications for grant, renewal or transfer of licences.

(2) An applicant for the renewal of a licence under this Act in respect of any premises shall give to the Board not less than twenty-eight days notice of his intention to make the application.

(3) In relation to such a licence under this Act as is authorised by subparagraph (3) of paragraph 1 of this Schedule —

- (a) subparagraphs (1) and (2) of this paragraph shall have effect as if for the reference to twenty-one or, as the case may be, twenty-eight days notice there were substituted a reference to fourteen days notice; and
- (b) the said subparagraph (1) shall have effect as if the requirement as to notice to the Commissioner of Police were omitted.

3. (1) The person making an application for the grant, renewal or transfer of a licence under this Act shall on doing so pay to the Treasurer such fee as may be prescribed, except that no fee shall be payable under this paragraph on an application for the grant or transfer of a licence under this Act in respect of one or more particular occasions if the Board is satisfied as regards that occasion or each of those occasions that the play or plays to be performed or the film or films to be exhibited are of an educational or other like character or are to be performed or exhibited for a charitable or other like purpose.

Fees.

(2) Upon the grant, renewal or transfer of a licence under this Act there shall be paid to the Treasurer such fee as may be prescribed.

4. In the event of the death of the holder of a licence under this Act in respect of any premises, that licence shall be deemed to have been granted to his personal representatives in respect of those premises and shall, unless previously transferred to some other person or cancelled or revoked, remain in force until the end of the period of three months beginning with the death and shall then expire, so, however, that the Board may from time to time, on the application of those representatives, extend or further extend the said period of three months if it is satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make it undesirable.

Transmission of licence on death of holder.

5. The Board upon receiving from the holder of a licence under this Act which is for the time being in force, a written request in that behalf accompanied by the licence, may cancel the licence.

Cancellation of licence.

6. (1) Where an application is made to the Board for the grant of a licence under this Act in respect of premises which are to be, or are in the course of being, constructed, extended or altered and the

Provisional grant of licences.

Board is satisfied that the premises would, if completed in accordance with plans deposited in accordance with the requirements of the Board, be such that it would grant the licence, the Board may grant the licence subject to a condition that it shall be of no effect until confirmed by it.

(2) The Board shall confirm any licence granted by virtue of subparagraph (1) of this paragraph if and when it is satisfied that the premises have been completed in accordance with the plans aforesaid, or in accordance with those plans as modified with its approval, and that the licence is held by a fit and proper person.

Variation of terms of licence.

7. The holder of a licence under this Act in respect of any premises may at any time apply to the Board for such variations of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application; and, subject to section 10, on any such application the Board may make such variations (whether specified in the application or not) in any of those terms, conditions or restrictions as it thinks appropriate, or may refuse the application.

SECOND SCHEDULE (Section 5(3))

THE PLAYS AND FILMS CONTROL BOARD

Constitution of Board.
7 of 1980, s. 2.

1. The Board shall consist of—

- (a) a chairman appointed by the Minister;
- (b) the Permanent Secretary to the Minister, or a person appointed by him as his representative;
- (c) the Commissioner of Police, or a person appointed by him as his representative;
- (d) four other persons selected, from time to time, by the chairman, being members of a panel of not more than fifteen persons appointed by the Minister, for the purpose of constituting the Board.

Tenure of office of members.

25 of 1995, s. 2 and Sch.

2. Any member of the Board (other than the Permanent Secretary to the Minister or the Commissioner of Police) shall, subject to the provisions of this Schedule, hold office for such period, not exceeding three years as the Minister may determine, and shall be eligible for reappointment.

Acting appointments.

3. The Minister may appoint any person to act in the place of the chairman or any other member of the Board in case of the absence or inability of the chairman or that member to act.

4. (1) Any member of the Board other than the chairman may at any time resign his office by instrument in writing addressed to the chairman, who shall forthwith cause it to be forwarded to the Minister and, from the date of the receipt by the chairman of such instrument, that member shall cease to be a member of the Board. Resignations.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and, from the date of the receipt by the Minister of such instrument, the chairman shall cease to be chairman or a member of the Board.

5. The Minister may, if he thinks it expedient so to do, at any time revoke the appointment of the chairman or any other member of the Board. Revocation of appointments.

6. The names of the members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.

7. (1) The chairman of the Board shall convene meetings of the Board at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the chairman may determine. Procedure of Board
7 of 1980, s. 2.

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

(3) Subject to the provisions of this Schedule the Board may regulate its own proceedings.

8. The Board may appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, but subject to the prior approval of the Minister in each case, a secretary and such other officers, servants and agents as it thinks necessary for the proper discharge of its functions: Officers, servants and agents.

Provided that nothing in this paragraph shall prevent the assigning to the Board, to act as such an officer, servant or agent of the Board, of any public officer.