

# THE CINEMATOGRAPH (AMENDMENT) ACT, 1974

No. 27 OF 1974

[23rd August, 1974.]

## An Act further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Cinematograph (Amendment) Act, 1974.

Short title  
and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

37 of 1952.

2. In the Cinematograph Act, 1952 (hereinafter referred to as the principal Act), in section 2,—

Amend-  
ment  
of sec-  
tion 2.

(a) after clause (a), the following clause shall be inserted, namely:—

‘(aa) “Appellate Tribunal” means an Appellate Tribunal constituted under sub-section (2) of section 5D;’;

(b) after clause (d), the following clauses shall be inserted, namely:—

‘(da) “Examining Committee”, in relation to a film, means the Examining Committee constituted by special order under section 3B for that film or, as the case may be, the Examining Committee constituted under that section by general order for films of the class to which such film belongs;

(db) “export” means taking out of India to a place outside India;’;

(c) clause (dd) shall be re-lettered as clause (dc);

(d) after clause (f), the following clause shall be inserted, namely:—

'(g) "Revising Committee", in relation to a film, means the Revising Committee constituted by special order under section 3B for that film or, as the case may be, the Revising Committee constituted under that section by general order for films of the class to which such film belongs.'

Amendment of section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "not more than nine other members", the words "five other whole-time members and six honorary members" shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:—

"Provided that three of the honorary members shall be persons engaged or employed in the film industry.";

(b) in sub-section (2), for the words "shall receive such salary and allowances as may be determined by the Central Government, and the other members", the words "and the other whole-time members shall receive such salaries and allowances as may be determined by the Central Government and the honorary members" shall be substituted.

Insertion of new sections 3A and 3B.

Assessors and Regional Officers.

4. After section 3 of the principal Act, the following sections shall be inserted, namely:—

"3A. (1) For the purpose of enabling the Board to efficiently discharge its functions, and for the examination of films in different languages, under this Act, the Central Government may appoint as many assessors as it thinks fit for such regional centres as may be determined by that Government:

Provided that not more than seven assessors shall be appointed in relation to films in any particular language.

(2) The assessors shall discharge such functions as are assigned to them by or under this Act and it shall be the duty of every assessor to render such assistance to the Board on any matter in respect of the examination of any film as may be required by the Board.

(3) The assessors shall not be entitled to any salary, but shall receive such fees or allowances as may be prescribed.

(4) At each regional centre, there shall be as many regional officers as the Central Government may think fit to appoint and

rules made in this behalf may provide for the association of regional officers in the examination of films.

3B. (1) The Board may, by special or general order, constitute—

(a) an Examining Committee for the examination under this Act of any film or class of films; and

(b) a Revising Committee, for reconsidering, where it is necessary so to do under this Act, the recommendations of any Examining Committee, for or in relation to any film or any class of films.

(2) Every Examining Committee shall consist of one whole-time member of the Board and two assessors, and the whole-time member shall be the Chairman of the Committee.

(3) Every Revising Committee shall consist of—

(a) the Chairman, one whole-time member, and one honorary member, of the Board; or

(b) two whole-time members, and one honorary member, of the Board,

and the Chairman of the Board or, if he is not a member of the Committee, one of the whole-time members nominated by him, shall be the Chairman of the Committee.”

5 In section 4 of the principal Act,—

(a) in sub-section (1), for the words “after examining or having the film examined in the prescribed manner”, the words “after the examination of the film as provided in this Act and the rules made thereunder” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Any person, desiring to export any film for exhibition outside India, shall, in the prescribed manner, make an application to the Board for a certificate in respect thereof and the Board may, after the examination of the film as provided in this Act and the rules made thereunder,—

(i) sanction the film as a film fit for exhibition outside India; or

(ii) direct the applicant to carry out such excisions or modifications in the film as it thinks necessary, before sanctioning the film as a film fit for exhibition outside India; or

(iii) refuse to sanction the film as a film fit for exhibition outside India.”;

(c) in sub-section (2), after the word, brackets and figure ‘sub-section (1)’, the words, brackets, figures and letter “or under clause (ii) or clause (iii) of sub-section (1A)” shall be inserted.

Examining Committees and Revising Committees.

Amendment of section 4.

Insertion  
of new  
section 4A.

Examination of  
films by  
Examining  
Committees.

6. After section 4 of the principal Act, the following section shall be inserted, namely:—

“4A. (1) Every film in respect of which an application is made under section 4 shall be examined in the prescribed manner by the Examining Committee.

(2) The Examining Committee shall examine the film having regard to the principles for guidance in certifying films specified in or under section 5B and make such recommendations to the Board as it deems appropriate:

Provided that if there is a difference of opinion amongst the members of the Committee each member shall record separately his recommendations and the reasons therefor.

(3) The recommendations of the Examining Committee or, as the case may be, the recommendations of each of the members of the Committee, shall be communicated in the prescribed manner to the Board and the Board shall, after making such further examination of the film as it may deem necessary, pass such orders on the application as it deems fit under sections 4 and 5A:

Provided that before passing such orders the Board shall refer the film for further examination to the Revising Committee—

(a) in a case where there is a difference of opinion between the Chairman of the Examining Committee and the other members thereof in respect of all or any of the recommendations;

(b) in any other case, if the applicant represents, when he is given an opportunity for representing his views under sub-section (2) of section 4, that the film shall be so referred.”

Substitution of  
new section for  
section 5.

Further examination  
by  
Revising  
Committee.

7. For section 5 of the principal Act, the following section shall be substituted, namely:—

“5. (1) Where any film is referred to a Revising Committee under sub-section (3) of section 4A, the Revising Committee shall examine the film in the prescribed manner having regard to the principles for guidance in certifying films specified in or under section 5B and make its recommendations to the Board:

Provided that if there is a difference of opinion amongst the members of the Committee each member shall record separately his recommendations and the reasons therefor.

(2) The recommendations of the Revising Committee or, as the case may be, the recommendations of each of the members of the Committee shall be communicated in the prescribed manner to the Board and the Board may pass such orders on the application as it deems fit under sections 4 and 5A.”

8. In section 5A of the principal Act,—

(a) in sub-section (1), for the words "If, after examining a film or having it examined in the manner provided in this Act," the words, brackets and figures "If, after the examination, as provided in this Act and the rules made thereunder, of a film in respect of which an application under sub-section (1) of section 4 has been made," shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) If, after the examination, as provided in this Act and the rules made thereunder, of a film in respect of which an application under sub-section (1A) of section 4 has been made, the Board considers that the film is a film fit for exhibition outside India, it shall grant to the person applying for a certificate in respect of the film, a certificate to that effect and shall cause the film to be so marked in the prescribed manner.";

(c) in sub-section (3), for the words "under this section shall be valid throughout India for a period of ten years," the words, brackets, figures and letter "under sub-section (1) shall be valid throughout India for a period of ten years and a certificate granted by the Board under sub-section (1A) in respect of a film shall be valid for purposes of export of the film for such period as may be prescribed." shall be substituted.

9. In section 5B of the principal Act,—

(a) in sub-section (1),—

(i) for the words "certified for public exhibition", the words "certified under this Act" shall be substituted;

(ii) after the words "against the interests of", the words "the sovereignty and integrity of India," shall be inserted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) In particular and without prejudice to the generality of the provisions of sub-section (1), a film shall not be certified as a film fit for exhibition outside India if, in the opinion of the authority competent to grant the certificate, the film or any part of it presents or is likely to present an erroneous, distorted or misleading image of the social, cultural or political institutions of India or any part thereof.";

(c) in sub-section (2),—

(i) for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letter "sub-section (1) and sub-section (1A)" shall be substituted;

(ii) after the words "public exhibition", the words "or, as the case may be, exhibition outside India" shall be inserted.

10. For section 5C of the principal Act, the following sections shall be substituted, namely:—

5C. (1) The Central Government shall, by notification in the Official Gazette, nominate twelve persons to serve, as hereinafter provided, as members of Appellate Tribunals.

Amend-  
ment of  
section 5A.

Amend-  
ment of  
section 5B.

also see A

Substitu-  
tion of  
new sec-  
tions for  
section  
5C.

Appellate  
Tribunals.

(2) Such nomination shall be made from persons—

(i) who are familiar with the social, cultural or political institutions of India, or

(ii) who have special knowledge of the various regions of India, or

(iii) who have special knowledge of films and their impact on society, or

(iv) who have, for at least ten years, held civil judicial posts or who have been in practice as advocates for at least ten years or who have been members of the Central Legal Service (not below Grade III) for at least three years.

*Explanation.*—For the purpose of this sub-section, in computing the period during which a person had been an advocate of a High Court, there shall be included any period during which the person has held judicial office after he became an advocate.

(3) Every Appellate Tribunal shall consist of three members appointed by the Central Government from among the persons nominated by it under sub-section (1).

(4) The Central Government shall, by notification in the Official Gazette, designate any officer of Government to function as the Registrar of Appellate Tribunals.

(5) The terms and conditions of service of the members of, and the procedure to be followed by, the Appellate Tribunals shall be such as may be prescribed.

#### Appeals.

5D. (1) Any person who applies for a certificate in respect of a film and who is aggrieved by an order of the Board—

(a) refusing to grant the certificate, or

(b) granting only an "A" certificate, or

(c) directing the applicant to carry out any excisions or modifications,

may, within thirty days from the date of such order, lodge an appeal with the Registrar of Appellate Tribunals appointed under sub-section (4) of section 5C.

(2) The Central Government shall, as soon as may be upon receipt of information of the lodging of any appeal, constitute an Appellate Tribunal as specified in sub-section (3) of section 5C.

(3) The Appellate Tribunal shall, after such inquiry into the matter as it considers necessary, and after giving the appellant an opportunity for representing his views in the matter, make such order in relation thereto as it thinks fit and the Board shall dispose of the matter in conformity with such order.

11. In section 6 of the principal Act,—

(a) in sub-section (1), for the words "pending before, or has been decided by, the Board," the words and brackets "pending before the Examining Committee or the Revising Committee or the Board, or has been decided by the Board (but not including any proceeding in respect of any matter which is pending before or has been decided by an Appellate Tribunal)," shall be substituted;

(b) in sub-section (2),—

(i) for the words "by notification", the words "by order published" shall be substituted;

(ii) in clause (a), after the words "any part of India", the words "or, as the case may be, an uncertified film for exhibition outside India, whether generally or in any particular country or countries outside India" shall be inserted;

(iii) in clause (c), after the words "the exhibition", the words "or, as the case may be, export for exhibition" shall be inserted;

(c) after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) The Central Government may, if satisfied in relation to any film in respect of which an order has been made by an Appellate Tribunal under section 5D that it is necessary so to do in the interests of—

- (i) the sovereignty and integrity of India; or
- (ii) the security of the State; or
- (iii) friendly relations with foreign States; or
- (iv) public order or decency or morality,

make such inquiry into the matter as it considers necessary, and pass such order in relation thereto as it thinks fit, and the Board shall thereupon dispose of the matter in conformity with such order:

Provided that no such order shall be made prejudicially affecting any person to whom a certificate has been granted except after giving him an opportunity for representing his views in the matter:

Provided further that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against public interest to disclose.

(6) The provisions of sub-sections (2) to (4) of this section shall, so far as may be, apply also in relation to every film in respect of which the Central Government may exercise powers under sub-section (5)."

12. In section 6A of the principal Act, for the words "distributor or exhibitor", at both the places where they occur, the words "distributor, exhibitor or exporter" shall be substituted.

Amendment of section 6.

Amendment of section 6A.

Amendment of section 7.

13. In section 7 of the principal Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) exports or attempts to export any film which is not certified by the Board as a film fit for exhibition outside India, or”.

Amendment of section 7A.

14. In section 7A of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where any film which is not certified by the Board as a film fit for exhibition outside India is attempted to be exported, any police officer may, in pursuance of an order made in this behalf by the District Magistrate or any magistrate of the First Class empowered in this behalf by the District Magistrate, enter any place in which he has reason to believe that the film is kept, search it and seize the film.”.

Amendment of section 7C.

15. In section 7C of the principal Act,—

(i) after the word “Board”, the words “or an Appellate Tribunal” shall be inserted;

(ii) for the word “person”, the words “person or authority” shall be substituted.

Amendment of section 7D.

16. In section 7D of the principal Act, the words “or of any advisory panel” and the words “or panel, as the case may be” shall be omitted.

Amendment of section 7E.

17. In section 7E of the principal Act, for the words “and of any advisory panel”, the words “and of every Appellate Tribunal and all assessors” shall be substituted.

Amendment of section 7F.

18. In section 7F of the principal Act, for the words “advisory panel or any officer or member of the Central Government, Board or advisory panel, as the case may be,” the words “any Examining Committee, any Revising Committee, any Appellate Tribunal or the Registrar of Appellate Tribunals or any other officer of the Central Government or any member of the Board or of any Appellate Tribunal or an assessor,” shall be substituted.

Amendment of section 8.

19. In section 8 of the principal Act, in sub-section (2),—

(a) in clause (a), after the words “the number of persons who may constitute the Board”, the words “, the terms and conditions of service (other than salary and allowances) of the Chairman and other whole-time members of the Board, the allowances or fees and other terms and conditions of service of the honorary members of the Board” shall be inserted;

(b) after clause (a), the following clauses shall be inserted, namely:—

“(aa) the functions of, the fees or allowances payable to, and the other terms and conditions of service of, assessors;

(ab) the procedure of Examining Committees and Revising Committees for examining films and making recommendations to the Board and all matters ancillary thereto;



(ac) the terms and conditions of service of persons appointed as members of any Appellate Tribunal;";

(c) in clause (b), the words "as suitable for public exhibition" shall be omitted;

(d) in clause (e), for the words "may be preferred", the words "may be lodged and the procedure which may be followed for the disposal of appeals" shall be substituted;

(e) after clause (e), the following clause shall be inserted, namely:—

"(ea) the time within which any act or thing (including the examination of any film and the disposal of any proceedings) shall ordinarily be done under this Act, by the Board, or Examining Committees or Revising Committees or the Central Government or Appellate Tribunal or other officers or authorities under this Act;".

20. In section 9 of the principal Act, for the words "exhibition of any film", the words "exhibition or export of any film" shall be substituted.

Amendment of section 9.

21. (1) The provisions of the principal Act, as amended by this Act (the principal Act as so amended being hereafter in this section referred to as the amended Act), shall apply in relation to applications in respect of films made to the Board under sub-section (1) of section 4 of the principal Act and pending immediately before the commencement of this Act, subject to the following provisions, namely:—

Special provision as to pending cases.

(a) The Board may take action under clause (i), clause (ii), clause (iii), or, as the case may be, clause (iv) of the said sub-section (1) in respect of any such film where, before such commencement, the Board,—

(i) has examined the film; or

(ii) had the film examined by a revising committee referred to in rule 25 of the Cinematograph (Censorship) Rules, 1958; or

(iii) had the film examined by an examining committee referred to in rule 23 of the said rules and neither the applicant makes a request for the reference, for further examination, of the film to a revising committee within the time allowed under the principal Act nor the Board considers it necessary to make such a reference.

(b) The Board shall refer such film for further examination to a Revising Committee constituted under the amended Act where, before such commencement,—

(i) the film had been examined by an examining committee, referred to in the said rule 23, and either the applicant makes a request for the reference, for examination, of the film to a Revising Committee within the time allowed under the principal Act or the Board considers it necessary to make such a reference;

(ii) the film has been referred to a revising committee under the said rule 25 and the revising committee has not completed the examination of the film.

(c) The Board shall refer the examination of such film to an Examining Committee constituted under the Amended Act where, before such commencement,—

- (i) the film has not been examined by the Board or referred for examination to an examining committee referred to in rule 23 of the said rules; or
- (ii) the film has been referred for examination to an examining committee referred to in the said rule 23, but such committee has not completed the examination of the film.

*Explanation.*—For the purpose of this sub-section, an examining committee or a revising committee shall be deemed to have examined a film when it has sent the record of its examination of the film to the Chairman of the Board.

(2) All appeals under the principal Act, pending with the Central Government immediately before the commencement of this Act, shall be dealt with in accordance with the provisions of section 5D of the Amended Act.

(3) The Central Government shall exercise its revisional powers in respect of any matter which is pending before it, the Board or any authority under the principal Act immediately before the commencement of this Act, or which has been decided by the Board before such commencement, in accordance with the provisions of section 6 of the Amended Act.

Section 5D  
Section 6  
Section 5D  
Section 6  
Section 5D  
Section 6