

THE HIMACHAL PRADESH CINEMAS (REGULATION) ACT, 1979
ARRANGEMENT OF SECTIONS

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THE HIMACHAL PRADESH CINEMAS (REGULATION) ACT, 1979
(ACT NO. 4 OF 1979)¹

(Received the assent of the Governor, Himachal Pradesh on 1st May, 1979 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 7th May, 1979, pp. 1705-1711).

An Act to make provisions for regulating exhibitions by means of cinematographs in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:-

1. Short title, extent and commencement.-(1) This Act may be called the Himachal Pradesh Cinemas (Regulation) Act, 1979.

(2) It extends to the whole of Himachal Pradesh.

(3) This Act shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

(a) "cinematograph" includes any apparatus for the representation

1. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 7th April, 1979, p. 1210.

of moving pictures or series of pictures;

- (b) "Government" means the Government of Himachal Pradesh;
- (c) "notification" means notification published under proper authority in the Official Gazette;
- (d) "Official Gazette" means the Rajpatra, Himachal Pradesh;
- (e) "place" includes a house, building, tent and any description of transport, whether by sea, land or air;
- (f) "prescribed" means prescribed by rules made under this Act.

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.

4. Licensing authority.- The authority having power to grant licences under this Act (hereinafter referred to as the licensing authority) shall be the District Magistrate:

Provided that the Government may, by notification in the Official Gazette, constitute for the whole or any part of Himachal Pradesh, such other authority as it may specify therein, to be the licensing authority for the purposes of this Act.

5. Restrictions on powers of licensing authority.- (1) The licensing authority shall not grant a licence under this Act unless it is satisfied that-

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

(2) Subject to the foregoing provisions of this section and to the control of the Government, the licensing authority may grant licences under this Act to such persons as it thinks fit, on payment of such fees and on such terms and conditions and subject to such restrictions as may be prescribed or may, after recording in writing its reasons therefor, refuse to grant any such licence.

(3) Any person aggrieved by an order of the licensing authority refusing to grant a licence under this Act may, within such time as may be prescribed, appeal to the Government or to such officer as the Government may specify in this behalf and the Government or the officer, as the case may be, may make such order in the case as it or he thinks fit.

(4) The Government may, from time to time, issue directions to licensees generally or to any licensee in particular for the purpose of regulating the exhibition of any film or class of films, so that scientific films, films intended for educational purposes, films dealing with news and current

events, documentary films or indigenous films secure an adequate opportunity of being exhibited, 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.

6. Power of the Government or local authority to suspend exhibition of films in certain cases.- (1) The Government in respect of the whole of Himachal Pradesh or any part thereof, and the District Magistrate, in respect of the district within his jurisdiction, may, if it or he, as the case may be, is of the opinion that any film which is being publically exhibited is likely to cause a breach of peace, by order, suspend the exhibition of the film and during such suspension the film shall be deemed to be uncertified film in Himachal Pradesh, part of Himachal Pradesh or district, as the case may be.

(2) Where an order under sub-section (1) has been issued by a District Magistrate, a copy thereof, together with a statement of reasons therefor, shall forthwith be forwarded by the District Magistrate to the Government, and the Government may either confirm or rescind the order.

(3) An order made under this section shall remain in force for a period of two months from the date thereof, but the Government may, if it is of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period as it thinks fit.

7. Penalties.-If the owner or person in charge of a 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, or of the conditions and restrictions upon or subject to which any licence has been granted under this Act, he, as well as the manager, servants or agents of the person to whom the licence is granted, shall be guilty of an offence; and shall, on conviction, be punished 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 :

Provided that, a person to whom a licence is granted shall not be guilty of an offence as aforesaid, if he proves that any offence committed by any person in his employ or on his behalf took place without his knowledge or consent, and that the employee or agent was not acting with his express or implied permission, and that he exercised all due diligence to prevent the commission of the offence or its continuation.

8. Power to suspend, cancel or revoke licence.- (1) Notwithstanding anything contained in this Act, the Government or the licensing authority may at any time suspend, cancel or revoke a licence granted under section 5 on one or more of the following grounds, namely:-

- (a) the licence was obtained through fraud or misrepresentation;
- (b) the licensee has committed a breach of any of the provisions of this Act or the rules made thereunder or of any condition or restriction contained in the licence, or of any direction issued

under sub-section (4) of section 5;

- (c) on account of any changes occurring in the locality of the place licensed, the continuance of the licence is considered prejudicial to decency or morality;
- (d) the licensee has been convicted of an offence under section 7 of this Act or section 7 of the Cinematograph Act, 1952 (37 of 1952) or section 7 of the Punjab Cinemas (Regulation) Act, 1952 (11 of 1952);
- (e) the licensee has been convicted for not less than two times of an offence punishable under clause (a) of sub-section (1) of section 18 of the Himachal Pradesh Entertainments Duty Act, 1968 (12 of 1968), or has compounded such offence for not less than two times under section 19 of that Act;
- (f) a penalty under section 17 of the Act referred to in clause (e) has been imposed for not less than two times on the licensee.

(2) Where the Government or the licensing authority is of the opinion that a licence granted under section 5 should be suspended, cancelled or revoked, it shall, as soon as may be, communicate to the licensee the grounds on which the action is proposed to be taken and shall afford him a reasonable opportunity of showing cause against the action proposed to be taken.

(3) If, after giving such opportunity, the Government or the licensing authority, as the case may be, is satisfied that the licence should be suspended, cancelled or revoked, it shall record an order stating therein the ground or grounds on which the order is made, and shall communicate the same to the licensee in writing.

(4) Where the order suspending, cancelling or revoking a licence under sub-section (3) has been passed by a licensing authority, any person aggrieved by the order may, within thirty days of the communication of such order to him, prefer an appeal to Government which may pass such order as it thinks fit.

(5) The order of the Government shall be final.

9. Power to make rules.- (1) The Government may, by notification in the Official Gazette, make rules-

- (a) prescribing the procedure in accordance with which a licence may be obtained and the terms, conditions and restrictions, if any, subject to which licence may be granted under this Act;
- (b) providing for the regulation of cinematograph exhibitions for securing the public safety;
- (c) prescribing the time within which and the conditions subject to which an appeal under sub-section (3) of section 5 may be preferred;
- (d) regulating the means of entrance and exit at places licensed

under this Act, and providing for prevention of disturbances thereat;

- (e) regulating or prohibiting the sale of any ticket or pass for admission by whatever name called to a place licensed under this Act.

(2) In making rules under this section the Government may provide that any person failing to comply with or contravening the provisions of any rule shall, on conviction, be punished with fine which may extend to one thousand rupees. A failure to comply with, or on contravention of the provisions of a rule made under clause (e) of sub-section (1) shall be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.

(4) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. Power to exempt.- The Government may, by order in writing, exempt, subject to such conditions and restrictions as it may impose any cinematograph exhibition or class of cinematograph exhibitions as also the premises or site intended to be used for cinematograph exhibition from any of the provisions of this Act or of any rules made thereunder.

11. Repeal and savings.- The Punjab Cinemas (Regulation) Act, 1952 (11 of 1952) as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) and Part-III of the Cinematograph Act, 1952 (37 of 1952) in its application to the areas comprised in Himachal Pradesh immediately before the 1st November, 1966, are hereby repealed:

Provided that anything done or any action taken (including any appointment made, notification, order or directive issued, rule framed, any licence issued, cancelled, suspended or revoked and any proceeding commenced or continued) shall, in so far as it is not inconsistent with this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force until superseded by anything lawfully done under this Act.
