

The Cinematograph (Amendment) Act, 2023.

UNION OF INDIA

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Act 12 of 2023

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An Act further to amend the Cinematograph Act, 1952. BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the Cinematograph (Amendment) Act, 2023. (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Construction of reference of certain expressions by certain other expressions.

Throughout the Cinematograph Act, 1952 (hereinafter referred to as the principal Act), for the letters and word ‘ “UA” certificate’, wherever they occur, the letters and words “UA” Certificate with any UA marker’ shall be substituted.

3. Amendment of section 1

In section 1 of the principal Act, in sub-section (3), the proviso shall be omitted.

4. Amendment of section 2.

In section 2 of the principal Act,—(i) after clause (dd), the following clause shall be inserted, namely:—‘(ddd) “infringing copy” shall have the same meaning as assigned to it in sub-clause (ii) of clause (m) of section 2 of the Copyright Act, 1957;’; (ii) after clause (h), the following clause shall be inserted, namely:—‘(i) “UA marker” means an age-based indicator for a film which has received or is intended to receive a “UA” certificate under section 4 and such indicator may be “UA 7+” or “UA 13+” or “UA 16+”: Provided that where the Central Government is satisfied that it is necessary or expedient so to do in public interest, it may, by an order published in the Official Gazette and for the reasons to be recorded in writing, declare such other indicators.’.

5. Substitution of new section for section 4.

Examination of films. For section 4 of the principal Act, the following section shall be substituted, namely:—“4. (1) Any person desiring to exhibit any film shall make an application to the Board for a certificate in such form and manner as may be prescribed. (2) The Board may, after examining the film in such manner as may be prescribed,—(i) sanction the film for unrestricted public exhibition: Provided that, having regard to any material in the film, if the Board is of the opinion that viewing of such film by any child between seven to eighteen years of age is subject to guidance of parents or lawful guardian, then the Board may sanction the film for unrestricted public exhibition with an endorsement to that effect containing UA marker. Explanation.—For the removal of doubts, it is hereby clarified that—(a) the expression “seven” denotes completion of seven years of age and the expression “eighteen” denotes before attaining the age of eighteen years; (b) an endorsement by the Board shall enable the parents and lawful guardian of the child to consider whether such child should view such a film, and shall not be enforced by any person other than the parents or lawful guardian of the child; (ii) sanction the film for public exhibition restricted to adults; (iii) sanction the film for public exhibition restricted to members of any profession or any class of persons having regard to the nature, content and theme of the film; (iv) direct the applicant to carry out such excisions or modifications in the film as it may deem necessary before sanctioning the film for public exhibition under clauses (i), (ii) and (iii); or (v) refuse to sanction the film for public exhibition: Provided that no action under this section shall be taken by the Board, unless the applicant has been given an opportunity of being heard in the matter. (3) Any person desiring to exhibit on television or such other media as may be prescribed, any film which has been sanctioned by the Board under clause (ii) or clause (iii) of sub-section (2), may make an application to the Board in such form and manner as may be prescribed, and the Board may, for this purpose, sanction the film with a separate certificate, after directing the applicant to carry out such excisions or modifications in the film as it may think fit.’.

6. Amendment of section 5A

In section 5A of the principal Act, in sub-section (3), the words “for a period of ten years” shall be omitted.

7. Amendment of section 6.

In section 6 of the principal Act,—(a) sub-section (1) shall be omitted; (b) in sub-section (2), in the opening portion, for the words, brackets and figure “Without prejudice to the powers conferred on it under sub-section (1)”, the words “Subject to the provisions of this Act” shall be substituted

8. Insertion of new sections 6AA and 6AB.

After section 6A of the principal Act, the following sections shall be inserted, namely:—

6AA. Prohibition of unauthorised recording.

No person shall use any audio-visual recording device in a place licensed to exhibit films with the intention of making or transmitting or attempting to make or transmit or abetting the making or transmission of an infringing copy of such film or a part thereof. Explanation.—For the purposes of this section, the expression “audio-visual recording device” means a digital or analogue photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted cinematographic film or any part thereof, regardless of whether audio-visual recording is the sole or primary purpose of the device.

6AB. Prohibition of unauthorised exhibition of films.

No person shall use or abet the use of an infringing copy of any film to exhibit to the public for profit—(a) at a place of exhibition which has not been licensed under this Act or the rules made thereunder; or (b) in a manner that amounts to the infringement of copyright under the provisions of the Copyright Act, 1957 or any other law for the time being in force.’.

9. Amendment of section 7.

In section 7 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely: (1A) Save as otherwise provided in section 52 of the Copyright Act, 1957, if any person contravenes the provisions of section 6AA or section 6AB, he shall be punishable with imprisonment for a term which shall not be less than three months, but may extend to three years and with a fine which shall not be less than three lakh rupees but may extend to five per cent. of the audited gross production cost. (1B) Notwithstanding anything contained in this section—(i) a person aggrieved by a contravention under section 6AA or section 6AB shall not be prevented from taking suitable action for an infringement under section 51 of the Copyright Act, 1957 or from taking suitable action for computer related offences under section 66 of the Information Technology Act, 2000 or any other relevant laws for the time being in force; (ii) the appropriate Government or its agencies shall not be prevented from taking suitable action against an intermediary as defined under clause (w) of sub-section (1) of section 2 of the Information Technology Act, 2000, where such intermediary acts in the manner as set out under sub-section (3) of section 79 of the said Act or any other law for the time being in force. Explanation.—For the purposes of this sub-section, the expression “appropriate Government” shall have the same meaning as assigned to it in clause (e) of sub-section (1) of section 2 of the Information Technology Act, 2000.’.

10. Amendment of section 8.

In section 8 of the principal Act, in sub-section (2), for clause (c), the following clauses shall be substituted, namely:—“(c) the form and manner of making an application to the Board for a certificate under sub-section (1) of section 4; (ca) the manner of examination of film under sub-section (2) of section 4; (cb) the media for exhibition of film and the form and manner of making an application to the Board in this regard under sub-section (3) of section 4.