

U.P. Cinemas (Regulation) Act, 1955

UTTAR PRADESH

India

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Rule U-P-CINEMAS-REGULATION-ACT-1955 of 1955

- Published on 5 January 2018
- Commenced on 5 January 2018
- [This is the version of this document from 5 January 2018.]
- [Note: The original publication document is not available and this content could not be verified.]

U.P. Cinemas (Regulation) Act, 1955 Statement of Objects and Reasons. - The Uttar Pradesh Cinemas (Regulation) Act, 1955 has been enacted to regulate the exhibitions of films through cinematograph or video. Due to fast development in science and technology and change in construction techniques it has become necessary to amend the said Act. It has, therefore, been decided to amend the said Act mainly to provide for-(a) defining "Competent Authority" for the grant of permission regarding construction of Cinema/Multiplexes;(b) defining "Mini Cinema" to promote the construction of economically viable small cinemas;(c) omission of licensing to Television Signal Receiver Agency due to compulsory installation of Set Top Boxes after digitization;(d) permission of holding other entertainments after repealing the Uttar Pradesh Entertainment and Betting Tax Act, 1979;(e) online system for granting the license of cinema/multiplexes and permission of other entertainment within prescribed time, failing which license or permission will be deemed to have been granted;(f) restricting the provision of minimum distance only to the Raj Bhavan, the State Government Secretariat and the High Court;(g) revising the penalty and composition charges; and(h) extending the time period of license/renewal for Cinema/Multiplexes. The Uttar Pradesh Cinemas (Regulation) (Amendment) Bill, 2017 is introduced accordingly. An Act to make provisions for regulating exhibitions by means of cinema to graphs [and video] Where it is expedient to make provisions for regulating exhibitions by means of cinematograph [and video] in the state of Uttar Pradesh. It is hereby enacted as follows:

1. Short title, extent and commencement.

(1) This Act may be called the Uttar Pradesh Cinemas (Regulation) Act, 1955. (2) It shall extend to whole of Uttar Pradesh. (3) It shall come into force on such date as the state Government may, by notification in the official Gazette, appoint.

2. Definitions.

- In the Act, unless there is anything repugnant in the subject or context -(a)["appellate authority" means the State Government when the appeal is preferred against the order of an Officer, notified by the State Government for this purpose and the Divisional Commissioner when the appeal is preferred against an order of the District Magistrate. [Substituted by U.P. Act No. 7 of 2018, dated 5.1.2018.](a-1) "Competent Authority" means the local authority created or established under any law for the time being in force by the State Government which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;(a-2) "Entertainment" includes any exhibition, performance, amusement, game, sport (including horse race). Direct-To-Home Broadcasting services. Cable Sendees, exhibition by means of cinematograph. Digital Projection System and Video, to which persons are admitted for payment and, in the case of exhibition by means of cinematograph and Digital Projection System includes exhibition newsreel, documentaries, cartoons, advertisements, shorts and slides, whether before or during the exhibition of a feature film or separately. It also includes any activity notified as entertainment by the State Government from time to time;(a-3) "exhibition by means of video" means an exhibition to or in public, on payment for admission of moving pictures or series of pictures, by playing or replaying a pre-recorded cassette or any other device, by whatever name called or by means of a video cassette player or any other apparatus, by whatever name called whether on screen of a television set or video scope or otherwise;(a-4) "Mini Cinema" means a single screen cinema licensed for cinematograph exhibition or exhibition through digital projection system in a permanent building with seating capacity not exceeding 125,(a-5) "Multiplex" means a group or conglomeration of two or more than two cinema halls within the same premises with commercial, cultural and other entertainment related facilities;](aa)[exhibition by means of video means an exhibition in public on payment for admission of moving pictures or series of pictures by playing or replaying and [a pre-recorded cassette or any other device, by whatever name called by means of a video cassette player or any other apparatus, by whatever name called.]Explanations. - For the purposes of this clause exhibition by means of video in any restaurant or hotel or public transport vehicle shall be deemed to be on payment for admission whether or not payment for admission to such exhibition is charged distinctly from the payment for refreshment or means or room rent or fare or any other charges as the case may be.](b)"occupier" includes a managing agent or other person authorized to represent the occupier or having charge, management or control or the place on his behalf;(c)"owner" used with reference to any place includes any person receiving or entitled to receive the rent from the occupier;(d)"place" includes a house, building, tent or other structure and any description of transport whatsoever;(e)"prescribed" means prescribed by rules made under this Act; and(f)"State Government" means the Government of Uttar Pradesh;(g)["Video library" means a place, by whatever name called where the business of selling or letting on hire or distribution or exchange or putting into circulation in any manner whatsoever, of moving pictures or series or pictures recorded on a [video cassette or any other device by whatever name called] is carried on].

3. Licence.

- save as otherwise provided in this Act, no person shall -(a)[give an exhibition by means of cinematograph, or digital projection system, or;] [Substituted by U.P. Act No. 7 of 2018, dated 5.1.2018.](b)give an exhibition by means of video; or(c)Keep a video library, elsewhere than in place licensed under this Act, or otherwise than in compliance with the conditions and restrictions imposed by such licence].

4. [Licensing authority. [Substituted by U.P. Act No. 7 of 2018, dated 5.1.2018.]

- The authority having power to grant license under this Act (hereinafter referred to as the licensing authority) shall be the District Magistrate:Provided that the State Government may, by notification in the Gazette, confer upon an Officer, notified by the State Government for this purpose, for the whole or any part of the State, such of the powers of the licensing authority under this Act, as it may specify in the notification, either concurrently with or to the exclusion of the District Magistrate.Provided further that where any of such powers are exercisable concurrently by the District Magistrate and an Officer, notified by the State Government for this purpose, each of them shall keep the other informed of all orders passed by them, and in case of difference of opinion between them on any matter a reference shall be made to the State Government whose decision shall be final.]

4A. [Permission for holding entertainment. [Inserted by U.P. Act No. 7 of 2018, dated 5.1.2018.]

(1)No entertainment on which any tax is leviable, whether exempted from the liability to pay tax or not, shall be held without obtaining prior permission or the District Magistrate.(2)The District Magistrate may permit any such entertainment after satisfying himself that proper precaution has been taken for electrical and fire safety, law and order, public order and safety, and extra safety measure have been taken for any arrangement of air cooling or air conditioning facility and any other electrical installations at the place where the entertainment is proposed to be held.(3)Not with standing anything to the contrary contained in any provision of this Act or any other law for the time being in force, the District Magistrate or any other officer authorized by the State Government in this behalf, may prohibit the holding of such entertainment, if he is satisfied that-(a)the proprietor has given any false information which is likely to result in the evasion of tax;(b)the proprietor has committed or likely to commit a breach of any of the provisions of this Act or the rules made there under; or(c)the holding of the entertainment is prejudicial to public safety, decency or morality :Provided that nothing in this section shall apply to Direct-to-Home. cable services and all entertainments licensed under the provisions of this Act.

4B. Provisions related to the licensing and permission.

(1)A license required for the entertainments, as provided in Section 3 may be granted by the licensing authority for a period not exceeding five years,(2)A permission, as provided in Section 4-A may be granted by the District Magistrate for the required period as mentioned in an application not exceeding five years.(3)On submission of an application complete in all respect the licensing authority or the District Magistrate shall grant or refuse to grant license or permission within 30 days from the date of receipt of an application in such manner as may be prescribed by the State Government. On expiry of the said period, the license or the permission shall be deemed to be granted.(4)The applicant may submit his/her application on departmental web portal along with necessary documents and payment of fees (if any). If the application is complete in all respect and the applicant is eligible, the license or permission shall be granted through the web portal within 30 days and the same shall be sent through email to the applicant. The applicant may also download the said license or permission from the departmental web portal:Provided if the license or permission is obtained by misrepresentation of fact or concealment of fact or on the basis of forged document then such license or permission shall be deemed null and void and may be cancelled by the licensing authority or District Magistrate and legal action shall be taken against applicant.]

5. Restrictions on the 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 substantially complied with, and(aa)[the building or other place in which cinematograph exhibition proposed to be given-(i)[is situated at a distance of not less than 200 metres from the Raj Bhawan, the State Government Secretariat or the High Court;] [Substituted by U.P. Act No. 7 of 2018, dated 5.1.2018.](ii)[and (iii) ***] [Omitted by U.P. Act No. 7 of 2018, dated 5.1.2018.]](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 persons attending exhibitions therein:(bb)[***] [Omitted by U.P. Act No. 7 of 2018, dated 5.1.2018.](c)[the grant of licence is not otherwise contrary to the public interest].[***] [Omitted by U.P. Act No. 7 of 2018, dated 5.1.2018.](2)For the purposes of clause (aa), the distance shall be measured from the outer boundary of the compound of the cinema building to the outer boundary of the compound, if any, of the building mentioned in that clause.](3)Subject to the foregoing provisions of this section and to the control of the State Government and the interests of the general public, the licensing authority may grant licences under this Act on such terms and conditions and subject to such restrictions as it may determine and on payment of such fees as may be prescribed.(4)Any person aggrieved by the decision of a licensing authority refusing to grant a licence under this Act may, within such time as may be prescribed, appeal to the State Government and the State Government may make such order in the case it thinks fit.(5)The State Government may from time to time, issue directions to licensees generally or to any film or class of films, so that scientific films, films intended for educational purposes, films dealing with news and opportunity of being exhibited and where any 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 State Government or District Magistrate to suspend exhibition of films in certain case.

(1)The State Government, in respect of the whole of the State of Uttar Pradesh or any part thereof, and the District Magistrate in respect of the district within his jurisdiction, may, if it exhibited is likely to cause a breach of the peace, by order, suspend the exhibition of the films and thereupon the films shall not during such suspension be exhibited in the State, Part or the district concerned, notwithstanding the certificate granted under the Cinematograph Act, 1952.(2)Where an order under sub-section (1) has been made by a District Magistrate a copy thereof together with a statement of reasons which may either confirm or discharge the order.(3)An order of suspension make under this section shall remain in force for a period of two months from the date thereof, but the State Government may, if it is of opinion that the order should continue in force, direct that the suspension shall be extended by such further period as it thinks fit.

6A. Inspection.

(1)The Licensing authority or any other officer authorized by him in this behalf may, with such assistance as may be necessary, enter, inspect and search at any reasonable time, any place ordinarily used or suspected to be used, for exhibition by means of cinematograph or video, or for keeping video library, with a view to securing compliance of the provisions of this Act or the rules make thereunder.(2)Every officer, referred to in sub-section (1), shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.(3)Every officer, referred to in sub-section (1) may require person who is suspected of contravening any of the provisions of this Act or rules make thereunder, to declare immediately his name and address, and if such person refuses or fails to give his name and address, or if the officer reasonably suspects him of giving a false name or address, the officer may arrest him and detained or get him detained at the nearest police station and the provisions of Section 42 of the Code of Criminal Procedure, 1973 shall apply.](4)[Every officer referred to in sub-section (1) shall have the power to prevent any exhibition by means of [cinematograph or digital projection system or video] [Substituted 'cinematograph or video' by U.P. Act No. 7 of 2018, dated 5.1.2018.] being given in contravention of the provisions of Section 3 and may, for that purposes, use such minimum force as he may consider necessary in the circumstances of the case.]

7. Power to suspend, revoke and cancel a licence.

(1)[Notwithstanding any thing contained in this Act, where a licence has been granted under Section 5, it may be cancelled or revoked in the public interest -(i)by the State Government, where the licence was granted by the Government or by the licensing authority;(ii)by the licensing authority, where the licence was granted by such authority.(1-A) In particular and without prejudice to the generality of the power conferred by sub-section (1), a licence may be cancelled or revoked under that sub-section on any of the following grounds, namely-(a)that the licence was obtained through fraud or misrepresentation; or(b)that the licensing authority or the State Government while considering the application or appeal, as the case may be, under Section 5 was under a mistake as to

a matter essential to the question of grant or refusal of licence ; or(c)that the licence has been guilty of breach of the provisions of this Act or the rules made thereunder or of any conditions or restrictions contained in the licence, or of any direction issued under sub-section (4) of Section 5; or(d)that on account of any charge occurring in the situation of the place licensed, the continuance of the licence is considered prejudicial to decency or morality ; or(e)that the licence has been convicted of any offence under Section 8 of this Act or Section 7 of Cinematograph Act, 1952].(2)Where the State Government or the licensing authority is of the opinion that a licence granted under Section 5 should be, cancelled or revoked, it shall, as soon as may be, communicate to the licence the grounds on which the action proposed to be taken and shall afford him a reasonable opportunity of making a representation against it :[Provided that where the State Government or the licensing authority, as the case may be, is further of the opinion that the object of the action proposed to be taken would be defeated by delay, it may, while or after communicating to the licensee, as aforesaid, the grounds on which the action is proposed to be taken would be defeated by delay, it may, while or after communicating to the licensee, as aforesaid, the grounds on which the action is proposed, pass an interim order suspending the licence in the meantime].(3)If after considering the representation, the State Government or the licensing authority, as the case may be, is satisfied that licence should be cancelled or revoked, it may make an order accordingly and shall communicate it to the licensee stating in writing the grounds therefor.(4)where the order suspending a licence under the proviso to sub-section (2) or canceling or revoking it 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, appeal to the State Government which may pass such order as it may thinks fit.(5)The order of the State Government shall be final.

8. Penalty.

(1)If the owner of person incharge of a Cinematograph uses or allows it to be used, or if the owner or occupier of a place permits that place to be used for exhibition by mean of cinematograph, or if a person gives exhibition by means of video or keeps a video library, in contravention of the provisions of this Act or the rules made thereunder or of the conditions and restrictions upon or subject to which licence has been granted under this Act, shall be punishable [with simple imprisonment for a term which may extend to six months or with fine which may extend to [twenty thousand rupees] [Substituted by U.P. Act No. 7 of 2018, dated 5.1.2018.], or with both] and in the case of continuing offence with a further fine which may extend a five hundred rupees for each day during which the offence continues.(2)If any person prevent the entry of any officer duly authorized in this behalf, or otherwise obstructs such officer in the discharge of his duties imposed by or under this Act or the rules make thereunder, he shall be punishable with a fine which may extend to [ten thousand rupees] [Substituted by U.P. Act No. 7 of 2018, dated 5.1.2018.].].

8A. Compounding of offences.

(1)Any offence punishable under this Act may, subject to any general or special order of the State Government in this behalf, be compounded by the Licensing Authority, either before or after the institution of the persecution, on realization such amount of composition fee as he thinks fit, not exceeding the maximum amount of fine fixed for the offence.(2)Where the offence is so

compounded -(a)before the institution of the prosecution, the offender shall not be liable to prosecution for such offence and shall, if in custody, be set at liberty;(b)after the institution of the prosecution the composition shall amount to acquittal of the offender].

9. Offences by companies.

(1)If the Person committing any offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section -(a)"company" means any body corporate and includes a firm or other association of individuals ; and(b)"director" in relation to a firm means a partner in the firm.

10. Power to exempt.

- The State Government may, in the interest of the general public or any section thereof, by order in writing and stating the reasons therefore, exempt, subject to such conditions any restrictions as it may impose, [any exhibition or class of exhibitions by means of cinematograph or video may be made or video libraries] from any of the provisions of this Act or any rules made thereunder.

11. Direction of action taken under the Act.

(1)No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under this Act or the rules made thereunder.(2)No suit or legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under this Act or rules made thereunder.

12. Repeal.

(1)The Cinematograph Act, 1918 in so far as it relates to the matter other than the sanctioning of cinematograph films for exhibition, is hereby repealed in its application to the State of Uttar Pradesh.(2)Any [rule or order], made under the Cinematograph Act, 1918 and in force immediately before the commencement of this Act, shall continue in force and be deemed to be a [rule or order] made under this Act; and all appointments made, licences granted conditions or restrictions

imposed and directions issued under any such [rule or order] and in force immediately before such commencement, shall likewise continue in force and be deemed to be made, granted, imposed or issued in pursuance of this Act.

13. Power to make rules.

(1)The State Government may, make rules for the purpose of carrying the provisions of this Act into effect.(2)in particular and without prejudice to the generality of the foregoing power, rule made under this Act may provide-(a)for the situation and regulation of the places at which and the conditions subject to which [exhibitions by means of cinematograph or video may be made or video libraries may be kept] displayed;(aa)[for the imposition of composition charges not exceeding [two lakh rupees] [Substituted 'fifty thousand rupees' by U.P. Act No. 7 of 2018, dated 5.1.2018.] on payment whereof exemption under Section 10 may be granted from the provision of the rules relating to the site or building to be used for exhibition by means of cinematography,](b)for the fees to be levied for grant and renewal of [licences for places under this Act];(c)for fees for inspection of places, electrical and other appliance and installations;(d)for the terms, conditions and restrictions subject to which licences may be granted;(e)for inspection of electric appliances and other installations;(f)for the period during which and the conditions subject to which an appeal under this Act may be preferred.(3)[All rules made under this Act shall, as soon as may be after they are made be laid before each House of the State Legislature while it is in session for a total person of thirty days extending in its one session or more than one successive sessions, and shall unless some later date is appointed, take effect from the date of their publication in the official Gazette, subject to such modifications or annulments as the two Houses of the Legislature may during the said period agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of any things previously done thereunder].

13A. [Validation and Savings. [Inserted by U.P. Act No. 7 of 2018, dated 5.1.2018.]

- The provisions of this Act as amended by the Uttar Pradesh Cinemas (Regulation) (Amendment) Act, 2017 shall also apply to the applications pending and approval given for construction of permanent building and license granted before the commencement of the Insertion of Section 13-A said Act of 2017.]NotificationsNotification No. 2146/x-M.K. 91-xx-R(7)-91, dated 11.10.1991. - In exercise of the powers under the first proviso to Section 4, Uttar Pradesh Cinemas (Regulation) Act, 1955 (U.P. Act No. 3 of 1956), the Governor is pleased to confer upon the Entertainment commissioner, Uttar Pradesh concurrently with the District Magistrate the powers of the Licensing Authority under Section 8-A of the said Act for the whole of the Uttar Pradesh with effect from the date of publication of the notification in the Gazette, Published in U.P. Gazette, extra, Part 4 (kha), dated 11.10.1991.