

The Gujarat Cinemas (Regulation) Act, 2004

GUJARAT

India

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Act 21 of 2004

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The Gujarat Cinemas (Regulation) Act, 2004 Gujarat Act No. 21 of 2004 (First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 18th June, 2004). An Act to provide for regulating exhibitions by means of cinematographs and the licensing of places in which cinematograph films are exhibited in the State of Gujarat. Whereas it is expedient to provide for regulating exhibitions by means of cinematographs and the licensing of places in which cinematograph films are exhibited in the State of Gujarat; It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows:-

1. Short title and extent.

(1) This Act may be called the Gujarat Cinemas (Regulation) Act, 2004. (2) It extends to the whole of the State of Gujarat.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,--(a) "cinematograph" includes any apparatus for the representation, moving pictures or series of pictures; (b) "licensing authority" means the authority empowered to grant licences under section 4; (c) "place" includes a house, building, tent and any description of transport, whether by sea, land or air; (d) "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. [Section 4 substituted by Gujarat No. 4 of 2005, dated 25,h February, 2005.]

- The authority having power to grant licence under this Act shall be the District Magistrate within his jurisdiction: Provided that the State Government may, by notification in the Official Gazette, constitute for the whole or any part of the State such other authority as it may specify in the notification to be the licensing authority for the purposes of this Act.]

5. Restriction 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 substantially 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 persons attending exhibition therein. (2) Subject to the provisions of sub-section (1), and to the control of the State Government, the licensing authority may grant licences under this Act to such persons as that authority thinks fit and on payment of such fees and on such terms and conditions and subject to such restrictions as may be prescribed. (3) The State 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 State Government or Licensing authority to suspend exhibition of films in certain cases.

(1) The State Government, in respect of the whole of the State of Government or any part thereof, or the licensing authority, in respect of the area within its jurisdiction, may, if it is of the opinion that any film which is being publicly exhibited is likely to cause a breach of the public order, by order, suspend the exhibition of the film and during such suspension, such film shall be deemed to be an uncertified film in the area specified in the order. (2) When an order under sub-section (1) has been issued by the licensing authority, a copy thereof together with a statement of reasons therefor, shall forthwith be forwarded by the licensing authority to the State Government and the State Government may either confirm or annul the order. (3) An order made under sub-section (1) shall, unless it is annulled by the State Government under sub-section (2), remain in force for a period of two months from the date thereof but the State Government may, if it is of the opinion that the order should continue in force, extend the period of suspension from time to time for such further period as it thinks fit.

7. Penalties for contravention of Act.

- 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 or if the owner or persons in charge of a cinematograph contravenes any of the conditions or restrictions imposed by an order of exemption made under section 13, he 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 after conviction for the first such offence.

8. Power to revoke or suspend licence.

- [(1)] [Renumbered as sub-section (1) by Gujarat No. 1 of 2006, dated 2nd March, 2006.] In the event of any contravention by the holder of a licence of any of the provisions of this Act or the rules made thereunder or of any of the conditions or restrictions upon or subject to which the licence has been granted to him under this Act or of any of the conditions or restrictions imposed by an order of exemption made under section 13, or in the event of his conviction of an offence under section 7 of this Act or section 7 of the Cinematograph Act, 1952 (XXXVII of 1952), the licensing authority may revoke the licence or suspend it for such period as it may think fit.(2)[The holder of a licence or the proprietor of a cinematograph fails to pay any tax including any penalty or interest due from him, the licensing authority may, on recommendation of the prescribed officer under section 20A of the Gujarat Entertainments Tax Act, 1977 (Gujarat 16 of 1977), revoke the licence or suspend it for not less than seven days:] [Sub-section (2) inserted by Gujarat No. 1 of 2006, dated 2nd March, 2006.] Provided that no licence shall be revoked or suspended unless the holder thereof has been given reasonable opportunity to show cause.

9. Appeal.

- Any person aggrieved by an order of a licensing authority refusing to grant a licence, or revoking or suspending any licence under section 8, may within such period as may be prescribed, appeal to the State Government and the State Government shall, on such appeal make such order as it thinks just and proper, and such order shall, subject to provisions of sections 10 and 11, be final.

10. Revision.

(1)The State Government may either of its own motion, or upon an application by an aggrieved person made within such period as may be prescribed, call for and examine the record of any order made by licensing authority under this Act, and pass such order thereon as it thinks just and proper.(2)The State Government shall -(i)before passing any order under sub-section (1), which is likely to affect any person adversely, give such persons a reasonable opportunity of being heard,

and(ii)record its reasons for passing an order under the said sub-section.

11. Review.

- Any person who, considering himself aggrieved by an order of the State Government under section 9 or 10, desires to obtain a review of the order passed against him, on the ground of some mistake or error apparent on the face of the record or on the ground that some new fact has been discovered which could not be placed earlier before the licensing authority or the State Government in spite of due diligence on the part of such person, may, within such period as may be prescribed, apply for a review of the order to the State Government and the State Government shall, after making such inquiry as it thinks fit, pass such order as it considers necessary in the circumstances of the case.

12. Power to make rules.

(1)The State Government may by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-(a)prescribing the procedure in accordance with which a licence may be obtained and the terms, conditions and restrictions, if any, subject to which licences may be granted under this Act and fees for such licences;(b)prescribing the period within which an appeal under section 9 or a revision application under section 10 or a review application under section 11 may be made;(c)providing for the regulation of cinematograph exhibitions for securing public safety;(d)regulating the means of entrance and exit at places licensed under this Act and providing for prevention of disturbance there at;(e)regulating or prohibiting the sale of any ticket or pass for admission by whatever name called to a place licensed under this Act.(3)In making rules under this section, the State Government may provide that any person failing to comply with or contravening the provisions of any rules shall, on conviction, be punished with fine which may extend up to one thousand rupees.(4)The power to make rules under this section shall be subject to the condition of previous publication.(5)All rules made under this section shall be laid for not less than thirty days before the House of the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.(6)Any modifications so made by the State Legislature shall be notified in the Official Gazette, and thereupon shall take effect.

13. Power to exempt.

- The State 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 from any of the provisions of this Act or of any rules made thereunder.

14. Delegation of power under section 13.

- The State Government may, subject to such restrictions and conditions as it may think fit to

impose, by notification in the Official Gazette, delegate to any of its officers the power conferred on it by section 13.

15. Repeal and savings.

(1) The Bombay Cinemas (Regulation) Act, 1953 (Bombay XI of 1953) is hereby repealed. (2) Notwithstanding such repeal of the said Act, anything done or any action taken (including any rule or order made, notification issued or appointment made) by or under that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken by or under this Act and shall continue to be in force until superseded by anything done or any action taken under the provisions of this Act.