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PROVINCIAL ASSEMBLY SECRETARIAT,
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NOTIFICATION

Dated Peshawar, the 12th March, 2018.

No. PA/Khyber Pakhtunkhwa/Bills-158/2018/5676.—The Khyber Pakhtunkhwa Censorship of Motion Pictures (Films, CDs, Videos, Stage Drama and Shows) Bill, 2018 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 26th February, 2018 and assented to by the Governor of the Khyber Pakhtunkhwa on 7th March, 2018 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA CENSORSHIP OF MOTION PICTURES (FILMS, CDS,
VIDEOS, STAGE DRAMAS AND SHOWS) ACT, 2018**

(KHYBER PAKHTUNKHWA ACT NO. XI OF 2018)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 12th March, 2018).

**AN
ACT**

to provide for the censorship of films, CDs, videos, stage dramas and shows etc. and its regulation for the purpose of exhibition by means of cinematographs cable networks or any electronic media etc.

Preamble.---WHEREAS it is expedient to provide for the censorship of films, CDs, videos, stage dramas and shows and its regulation for the purpose of exhibition by means of cinematographs, cable networks or any electronic media etc., and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Censorship of Motion Pictures (Films, CDs, Videos, Stage Dramas and Shows) Act, 2018.

(2) It shall extend to the whole of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

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

(a) "Board" means a Board established under section 3;

(b) "Chairman" means the Chairman of the Board;

(c) "cinematograph" includes any apparatus for the reproduction of moving pictures or series of pictures;

(d) "film" means cinematographic film or other materials used for projection by cinematograph;

(e) "Government" means the Government of the Khyber Pakhtunkhwa;

(f) "place" includes a house, building, tent and any means of transport, whether by sea, land or air;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Province" means the Province of Khyber Pakhtunkhwa; and

(i) "rules" means rules made under this Act.

3. Constitution of Board.---(1) Government may, by notification in the official Gazette, constitute, as many Boards, as it may think fit, for the purpose of examining and certifying films, CDs, videos, stage dramas and shows etc., for public exhibition and shall declare the area in respect of which each such Board shall exercise its powers under this Act.

(2) A Board shall consist of a Chairman and not less than three members to be appointed by Government on such terms and conditions as may be prescribed.

(3) The Chairman and members of the Board shall hold office during the pleasure of Government and receive such salary and allowances, if any, as may be determined by Government, from time to time.

4. Uncertified film, CD, video, stage drama and show, not to be exhibited.---(1) No person shall make or arrange a public or private exhibition of a film, CD, video, stage drama and show etc., by means of cinematograph, cable networks or any electronic media, as the case may be, unless it has been duly certified for public exhibition by the Board:

(2) Any person desiring to submit any film, CD, video, stage drama and show etc., for certification for public exhibition shall, in the prescribed manner, make an application to the Board for a certificate in respect thereof alongwith its re-recording, print or such equivalent material as the Board may determine, including sound tracks of speech, songs, music and effect, and refer the case to the Board, which may, after examining, or having it examined, in the prescribed manner,-

- (a) sanction for unrestricted public exhibition; or
- (b) sanction for such restricted public exhibition as may be prescribed; or
- (c) direct the applicant to carry out such excisions in the film, CD, video, stage drama and show, as the Board considers necessary before sanctioning the same for unrestricted or restricted public exhibitions; or
- (d) refuse to sanction the film CD, video, stage drama and show for public exhibition.

(3) Where the Board directs that any portion of the film, CD, video, stage drama and show etc., be excised, the Board shall, subsequent to the rejection of appeal, if any, or the expiration of thirty days from the order, if there is no appeal, destroy or cause to be destroyed all prints of sound and picture and original exposed negatives of the excised portions.

5. Certification of films, CDs, videos, stage dramas and shows etc.---(1) If, after examining a film, CD, video, stage drama and show etc., or having it examined, the Board considers that it is suitable for unrestricted public exhibition or that, though not suitable for such exhibition, it is suitable for restricted public exhibition, it shall grant to the person applying for certification of the film, CD, video, stage drama and show, a certificate of the appropriate category, and shall in all cases cause the film, CD, video, stage drama and show, to be marked in the prescribed manner.

(2) An order refusing to grant a certificate, or an order suspending a certificate, or an order decertifying a certified film, CD, video, stage drama and show shall be published in the official Gazette.

(3) Subject to the other provisions of this Act a certificate granted under this section shall be valid for such area and period as the Board may, by notification in the official Gazette specify in this behalf.

(4) All existing recoded films, CDs, videos, stage dramas and shows shall be certified by the Board within one year after the commencement of this Act and subsequent formation of Board. After one year deadline, all uncertified movies shall stand decertified.

6. Principles of guidance in certifying films, CDs, videos, stage dramas and shows.---(1) A film, CD, video, stage drama and show etc. shall not be certified for public exhibition, if, in the opinion of the Board, the film, CD, stage drama and show or any part thereof is prejudicial to the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality or amounts to the commission of, or incitement to an offence.

(2) Subject to the provisions of sub-section (1), for the guidance of the Board in the exercise of its powers under this Act, Government may issue a Censorship Code and such directions as it may think fit.

7. Appeals.---Any person applying for a certificate in respect of a film, CD, video, stage drama and show, who is aggrieved by any order of the Board,-

- (a) refusing to grant a certificate; or
- (b) granting only a restricted certificate; or
- (c) directing the applicant to carry out any excisions;

may, within thirty days of the date of such order, prefer an appeal to Government and the appeal shall be disposed of in such manner, as may be prescribed and such order shall be final:

Provided that before passing an order under this section an opportunity shall be provided to the appellant of being heard.

8. Power to suspend exhibition of films, CDs, videos, stage dramas and shows in certain cases.---(1) The Board may, if it has reason to believe that a film, CD, video, stage drama and show, in respect of which a certificate has been granted by the Board under section 5 has been or is being exhibited in contravention of any of the conditions subject to which it has been certified, by order suspend its exhibition for such period as may be specified in the order.

(2) Magistrate of the 1st Class, in respect of the whole or any part of the district, may, if he is of the opinion that any film, CD, video, stage drama and show, which is being publicly exhibited is likely to cause a breach of the peace, by order suspend the exhibition of it for such period not exceeding one month as may be specified in the order.

(3) While an order under sub-section (1) or sub-section (2) is in force in respect of a film, CD, video, stage drama and show shall be deemed to be uncertified in respect of the area specified in the order.

(4) For the purpose of inspecting the exhibition of films, CDs, videos, stage dramas and shows and the proper enforcement of the provisions of this Act relating to such exhibition, the Board may, by order in writing, authorize such persons as it may deem fit for such area as may be specified in the order.

(5) Where a film, CD, video, stage drama and show, in respect of which no certificate has been granted under this Act is exhibited, or a film, CD, stage drama and show certified as suitable for restricted public exhibition is exhibited otherwise than as certified, or is exhibited in contravention of any of the other provisions of this Act, any police officer not below the rank of inspector may, upon a report in writing made by the Board or by a person authorized by it in this behalf, enter any place licensed for the exhibition of films, CDs, videos, stage dramas and shows, in which there is reason to believe that it has been or is being exhibited, search it and seize the film, CD, video, stage drama and show and projection equipment.

(6) A copy of an order under sub-section (1) or sub-section (2), together with a statement of the reasons thereof, shall forthwith be forwarded to Government and Government may either discharge the order or, by notification in the official Gazette, direct that the film, CD, video, stage drama and show shall be deemed to be an uncertified in respect of such area as may be specified in the notification.

9. Revisional powers of Government.---(1) Notwithstanding anything contained in this Act, Government may at any stage call for the record of any proceedings in relation to any film, CD, video, stage drama and show which is pending before or has been decided by the Board and, after such inquiry into the matter as it considers necessary, and without notice to the person who has applied for certification of the film or to whom a certificate in respect of the film has been granted or to the distributor or exhibitor of such film, make such order in relation thereto as it thinks fit.

(2) Without prejudice to the powers conferred by sub-section (1), Government may, by notification in the official Gazette, direct that-

- (a) a film, CD, video, stage drama and show or class of it in respect of which a certificate has been granted under this Act or under any other law, shall be deemed to be an uncertified film, CD, video, stage drama and show or class of it in the whole or any part of the Province:

Provided that no such order shall be made by Government unless it is satisfied that it is necessary to do so in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or to prevent the commission of, or incitement to, an offence; or

- (b) a film, CD, video, stage drama and show which has been sanctioned for unrestricted public exhibition under section 5 or to which a "U" certificate has been granted under the Censorship of Films Act, 1963 shall be deemed to be a film in respect of which a restricted certificate has been granted.

10. Information and documents to be given to distributors and exhibitors with respect certified films, CDs, videos, stage dramas and shows.---Any person who delivers any certified film, CD, video, stage drama and show to any distributor or exhibitor shall, in such manner as may be prescribed, notify to the distributor or exhibitor as the case may be, its title and length, the number and nature of the certificate granted in respect thereof and the conditions, if any, subject to which it has been granted and such other particulars as may be prescribed.

11. Powers to direct exhibition of films, CDs, videos, stage dramas and shows for examination.---For the purpose of exercising any of the powers conferred on it by this Act, Government or the Board, as the case may be, may require any film, CD, video, stage drama and show, to be exhibited before it or before any person specified by it in this behalf.

12. Proceedings.---No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of a vacancy in, or defect in the constitution of the Board.

13. Licensing of places for exhibition.---(1) Save as otherwise provided in this Chapter, no person shall give a public exhibition by means of cinematograph, cable network or any electronic media, as the case may be, elsewhere than in a place licensed under this Act or otherwise than in compliance with any condition and restriction imposed by such license.

(2) Government may, by notification in the official Gazette, specify for whole or any part of the Province Licensing Authority for the purposes of this Chapter.

(3) The Licensing Authority shall not grant a license under this Chapter in respect of any place within his jurisdiction, unless it is satisfied that-

- (a) the rules made under this Chapter have been complied with; and
- (b) adequate precautions have been taken in respect of the place for which the license is to be given to provide for the safety and health of persons attending exhibition therein.

(4) Subject to the foregoing provisions of this section, the Licensing Authority may grant a license under this Chapter to such applicant as it deems fit and on such terms and conditions and subject to such restrictions as it may determine.

(5) Where the Licensing Authority specified by Government consists of more persons, no decision of the Licensing Authority shall be invalid by reason, only of the existence of a vacancy in, or defect in the Constitution of, the said Authority.

14. Directions as to screening of documentaries etc.---Government may, from time to time, issue to any person to whom a license has been granted under this Chapter any directions for the purpose of regulating the exhibition of any film, CD, video, stage drama and show or class of it so that scientific films, films intended for educational or cultural purposes, films dealing with news or current events, documentary films and indigenous films secure and adequate opportunity of being exhibited, and such directions shall be deemed to the additional conditions, and restrictions subject to which the license has been granted.

15. Delegation of powers.---Government may, by notification in the official Gazette, delegate all or any of the powers exercisable by it under this Act to such Authority or person as may be specified in the notification.

16. Certain persons to be public servants.---The Chairman, members and employees of a Board and persons empowered under sub-section (4) of section 8 shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

17. Bar to legal proceedings.---(1) No suit or other legal proceeding shall lie against Government, Board, or any officer or member thereof, as the case may be, in respect of anything which is in good faith done or intended to be done under this Act.

(2) No court shall grant an injunction or make any interim order in respect of any order passed under section 8 or section 9.

18. Penalties and procedure.---(1) Whoever-

- (a) exhibits or causes or permits to be exhibited in any place, or abets the exhibition of, any film, CD, video, stage drama and show, which has not been certified by the Board or which, when exhibited, does not display the prescribed mark or has been altered or tampered with since such mark was affixed thereto; or
- (b) without lawful authority, alters or tampers with, in any way, any film after it has been certified; or
- (c) fails to comply with the provisions of section 5 or of any order made under this Act,

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lac rupees, or with both and in the case of a continuing offence, a fine which may extend to ten lac rupees or with imprisonment which may extend to three years or with both.

(2) If the owner or person incharge of a cinematograph, cable network or any electronic media on any place uses it or allows it to be used in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon or subject to which any license has been granted under this Act, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, a fine which may extend to one lac rupees or with imprisonment which may extend to one year or with both.

(3) If any person is convicted of any offence punishable under sub-section (1) or sub-section (2) committed by him in respect of any film, CD, video, stage drama and show, the Court may further direct that the film, CD, video, stage drama and show and the cinematograph, cable network or any electronic media, as the case may be, used for its exhibition may be forfeited to the Board.

(4) Where the person convicted of an offence under this section is the holder of a license under section 13, the Licensing Authority may revoke the license.

(5) No Court shall take cognizance of an offence punishable under this section except upon a complaint in writing made by the Board or the Licensing Authority or persons authorized by any of them.

(6) An offence punishable under this Act shall deemed to be cognizable offence for the purpose of the Code of Criminal Procedure, 1898, notwithstanding anything to the contrary contained therein.

19. Power to make rules.---(1) Government may, by notification in the official Gazette, make rules for carrying out the purposes 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) the manner in which the Board may exercise its powers, including the establishment of centers at different places and the delegation of any of the powers of the Board to any member nominated by Government in that behalf;
- (b) the procedure of the Board and all matters ancillary
- (c) the conditions subject to which any certificate may be granted and the circumstances in which such certificate shall be refused;
- (d) the manner in which appeals under section 7 may be preferred, heard and disposed of;
- (e) the terms, conditions and restrictions, if any, under which licenses may be granted; and
- (f) any other matter which is to be prescribed.

20. Power to exempt.---Government may, by order in writing, exempt, subjects to such conditions and restrictions, as it may impose, any film, CD, stage drama and show or class of it or cinematograph, cable network or any electronic media exhibition or class of its exhibitions from all or any of the provisions of this Act or the rules made thereunder.

21. Repeal and Savings.---(1) The Motion Pictures Ordinance, 1979 is hereby repealed in its application to the extent of the Province of the Khyber Pakhtunkhwa.

(2) Notwithstanding the repeal of any Act by sub-section (1), everything done, order passed, action taken or obligation, liability, penalty or punishment incurred under any of the provisions of the said Act, shall, if not inconsistent with the provisions of this Act, continue in force and be deemed to have been done, passed, taken or incurred under the provisions of this Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa