

[AS REPORTED FROM THE INDUSTRIES AND COMMERCE
COMMITTEE.]

House of Representatives, 25th October, 1934.

Hon. Mr. Young.

CINEMATOGRAPH FILMS AMENDMENT.

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A BILL INTITULED

AN ACT to amend the Cinematograph Films Act, 1928. Title.
BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority
5 of the same, as follows:—

1. This Act may be cited as the Cinematograph Films
Amendment Act, 1934, and shall be read together with
and deemed part of the Cinematograph Films Act, 1928
(hereinafter referred to as the principal Act).

Short Title.

See Reprint
of Statutes,
Vol. I, p. 797

Provisions as to Censorship of Films.

Censor's approval of film may be absolute or qualified.

2. (1) The approval by the Censor of any film submitted for censorship pursuant to section five of the principal Act may be—

- (a) Absolute; or 5
- (b) Absolute, with a recommendation to the effect that the film is unsuitable for exhibition to children; or
- (c) Absolute, with a recommendation to the effect that the film is suitable for exhibition to 10 adult audiences only; or
- (d) Subject to a condition that the film may be exhibited only by or on behalf of an approved film society; or
- (e) Subject to a condition that the film may be 15 exhibited only to a specified class or to specified classes of persons.

(2) For the purposes of this section the expression "approved film society" means an incorporated society that is approved by the Minister for the purposes of 20 this section, and in respect of which he is satisfied that its object or principal object is to exhibit, or to arrange for the exhibition, to members of the society, and (if the rules of the society so provide) to persons introduced by 25 members of the society, of films that are represented to be of special interest from the educational, or artistic, or technical aspects of film-production.

Consequential repeal.

(3) Subsection five of section five of the principal Act is hereby repealed.

Publication of Censor's certificate.

3. (1) In addition to the matters specified in section 30 forty-three of the principal Act, regulations under that section may make provision in accordance with this section requiring or restricting the publication in posters and other advertising-matter of particulars of or in relation to the certificate given by the Censor in respect 35 of any cinematograph film.

(2) In respect of posters or other advertising-matter relating to any film specified therein, such regulations may require that particulars of the Censor's certificate shall, subject to such exceptions (if any) as may be 40 provided for in the regulations, be included in all such posters and in all other advertising-matter relating to that film.

(3) In respect of posters or other advertising-matter not relating to any specified film, but relating to an entertainment at which any unspecified film or unspecified films are to be exhibited, such regulations may require
5 that particulars of the certificate given by the Censor in respect of any film proposed to be exhibited at such entertainment shall, subject to such exceptions (if any) as may be provided for in the regulations, be included in all posters and other advertising-matter relating to such
10 entertainment.

(4) Any regulations made for the purposes of this section may impose obligations on the printer or publisher of any poster or other advertising-matter, or on the renter or exhibitor of any specified film to which any
15 such poster or other advertising-matter relates, or on the exhibitor of any film exhibited at an entertainment referred to in the *last preceding* subsection, or on the promoters of any such entertainment, or on any other persons, and may prescribe fines, not exceeding *fifty*
20 pounds in any case, for failure to comply with any of the requirements of such regulations.

(5) Section forty-three of the principal Act, as amended by subsection four of section two of the Cinematograph Films Amendment Act, 1929, is hereby
25 amended by omitting from paragraph (d) of subsection one the words "or publication".

4. Section seven of the principal Act is hereby amended by inserting, after the words "in the form in which it is so exhibited" in subsection one, the words
30 "or, in the case of a film that has been conditionally approved by the Censor, exhibits that film or any part of that film in contravention of any conditions imposed by the Censor".

Section 7 of principal Act amended.

5. Section two of the Cinematograph Films Amendment Act, 1929 (exempting sound-picture films from the requirements of sections sixteen and seventeen of the principal Act), is hereby repealed.

Repeal.

6. (1) The right of appeal from decisions of the Censor, conferred by section nine of the principal Act, shall
40 include a right, to be exercisable only by the Minister or by some person authorized by the Minister in that behalf, to appeal against the Censor's approval of any film, whether such approval is absolute or conditional, or has been given before or after the passing of this Act.

Censor's approval of film may be appealed against.

(2) On any such appeal the approval of the Censor may be withdrawn, or an absolute approval may be made conditional, or a conditional approval may be made absolute, or the conditions attached to a conditional approval may be varied within the limits defined by section *two* hereof. 5

(3) Where the Censor's approval of any film is withdrawn on appeal under the foregoing provisions of this section, the renter of that film and any exhibitor with whom the renter may have entered into any contract with reference to the exhibition of the film shall be mutually relieved from their liabilities under the contract in respect of that film, except so far as those liabilities are in respect of exhibitions of the film that have taken place before such withdrawal. 10 15

Provisions relating to Film-renting Contracts.

Renters to supply lists of films to Minister.

7. (1) Every renter, before entering into any contract for the exhibition of any film acquired or proposed to be acquired by him for release in any film-renting season, shall give to the Minister a statement in writing, in accordance with this section, with respect to all the films which the renter intends to release during that film-renting season. 20

(2) Every such statement shall be in the prescribed form and shall give— 25

- (a) Particulars as to the number of British quota films and the number of foreign quota films that the renter proposes to release during the season :
- (b) A general or particular description of the quota films that the renter proposes to release during the season. The description given pursuant to this paragraph of films proposed to be released in any season shall be not less complete than the description of such films given by or on behalf of a renter to any exhibitor in the course of negotiations for a film-renting contract or given prior to or contemporaneously with such negotiations in any advertisement published in any trade-newspaper or trade-circular or other document supplied to or circulating among exhibitors. 30 35 40

(3) For the purpose of this section, and generally for the purposes of this Act— Interpretation.

5 “Film-renting season”, in relation to the business of any renter, means the period during which release is given to the films which the renter, by direct offer, or by advertisement in a trade-newspaper or trade-circular, or otherwise howsoever, has represented to exhibitors, or to
10 an exhibitor, as being available for inclusion in any future film-renting contracts :

“Release”, in relation to any film, means the first exhibition of that film in New Zealand.

(4) Subsection five of section twenty-nine of the principal Act is hereby repealed. Repeal.

15 8. (1) Notwithstanding anything contained in any contract entered into by an exhibitor, whether before or after the commencement of this Act, for the supply to him for exhibition of any quota films exceeding four in
20 of this section and without incurring any liability for breach of contract, have the right to reject :—

(a) In the case of a contract entered into before the commencement of this Act, up to twenty-five per centum of the total number of quota films delivered or proposed to be delivered to the exhibitor in terms of that contract, reduced by the number of such quota films that have been exhibited or rejected by the exhibitor before the first day of January, nineteen hundred and
25 thirty-five :

30 (b) In the case of a contract entered into after the commencement of this Act, up to twenty-five per centum of the total number of quota films proposed to be delivered to the exhibitor in terms of that contract.

35 (2) Where for the purposes of the *last preceding* subsection twenty-five per centum of any number of films is not a whole number any fraction not less than one-half shall be deemed to be a whole number.

40 (3) The number of quota films that may be rejected by an exhibitor pursuant to this section shall be inclusive of and not in addition to the number of quota films (if any) that may be rejected by the exhibitor in terms of any contract with the renter, but no contract between the

Relief of exhibitors from "block bookings".

exhibitor and the renter shall be effective to restrict the exhibitor's choice of quota films that may be rejected by him within the limits hereinbefore prescribed by this section.

(4) For the purpose of determining the extent of an exhibitor's right of rejection under this section, all contracts made between a renter and an exhibitor shall be deemed to be one contract if such contracts provide for the supply to the exhibitor for exhibition in any one theatre, or in any one of a number of specified theatres, of films released or to be released by the renter during any film-renting season.

Repeals.

(5) Section thirty-nine of the principal Act, and section fifty of the Finance Act, 1930, are hereby repealed.

Exhibitor to give to renter notice of his intention to exercise any statutory or contractual right of rejection.

9. (1) Notice of his intention to reject any film pursuant to any right of rejection conferred on any exhibitor by the *last preceding* section or by any contract shall be given by the exhibitor to the renter within twenty-one days after the receipt by the exhibitor of a notification from the renter that such film will be available for exhibition by the exhibitor in terms of his contract :

Provided that in the case of a film that has not been released when such notification is given by the renter, the exhibitor may give notice of his intention to reject such film at any time within twenty-one days after its release or within twenty-one days after the film has been otherwise made available for view by the exhibitor or by some person nominated by the exhibitor to view it on his behalf at a screening arranged by the renter.

(2) Any notification given by a renter to an exhibitor for the purposes of this section with reference to a film that has been released before such notification is given shall specify the theatre in which such film was released, and such other particulars (if any) relating to prior exhibitions of the film as may be prescribed.

(3) For the purposes of this and the *last preceding* section the right to select any film or films from any number of films, the subject-matter of a film-renting contract, shall be deemed to be a right to reject any unselected film or films.

10. (1) The Minister is hereby empowered to prescribe or approve the terms and conditions of a standard form of film-renting contract. When such standard form has been prescribed or approved as aforesaid, and so long as it remains in force, all film-renting contracts (whether made before or after the commencement of this Act) with reference to films exhibited on or after the *first* day of January, nineteen hundred and thirty-five, shall be read subject thereto, and in so far as the terms and conditions of any such contract purport to negative or are inconsistent with any of the terms or conditions of the standard form they shall not be binding either on the exhibitor or the renter.

Film-renting contracts to be in form approved by Minister.

(2) Without in any way limiting the discretion of the Minister to prescribe or approve the terms and conditions of a standard form of contract, the Minister is hereby expressly empowered to include in such standard form a provision to the effect that the exhibitor shall not by the terms of any contract with a renter be required to charge for admission to any theatre a minimum fee exceeding *sixpence* for adults or *threepence* for children or such higher minimum fees as the Minister may, either generally or in any particular circumstances, think proper.

(3) Before approving any standard form of contract for the purposes of this section the Minister shall submit the same to the Advisory Committee appointed under section forty-one of the principal Act, for its consideration and recommendations.

(4) The approval by the Minister of any standard form of contract in accordance with this section shall be effective for such period, not exceeding two years, as the Minister may specify in giving his approval:

Provided that such standard form of contract may be at any time varied with the approval of the Minister given on a joint application made by or on behalf of a majority of the renters and a majority of the exhibitors for the time being licensed under the principal Act:

Provided also that if, on the expiration of the period for which the approval by the Minister of a standard form of contract has been given, a new standard form has not been approved, the approved form shall, unless the Minister otherwise directs, continue to be operative until it is superseded on the approval of a new standard form.

(5) No contract entered into while an approved standard form of contract is operative shall be affected by any variation thereafter made in that standard form or by the approval of a new standard form in lieu thereof. 5

Certain provisions in existing film-renting contracts declared to be void.

11. If in any film-renting contract made before the passing of this Act, or made after the passing of this Act and before the approval by the Minister of a standard form of contract in accordance with the *last preceding* section, provision is made for the cancellation of the contract at the option of the renter, on any ground other than the default of the exhibitor in the performance of the terms of the contract, such provision shall be absolutely void and of no effect. 10

Provisions for the Prevention of Monopolies. 15

Restrictions on conduct of business by renters and exhibitors.

12. (1) Every licensed renter shall be guilty of an offence against this section who, on application by a licensed exhibitor who is otherwise unable to obtain an adequate supply of films on usual trade terms and conditions, refuses to rent any released film to such exhibitor, on the terms and conditions usually applicable in the circumstances of the business of such exhibitor and such renter respectively, unless, when such application is made, that film is the subject-matter of a film-renting contract with a competitive exhibitor and has not been rejected by him, or is the subject-matter of *bona fide* negotiations for renting with a competitive exhibitor. 20 25

(2) Every licensed exhibitor shall be guilty of an offence against this section who at any time hires any films in excess of the number of films reasonably required by him for exhibition in any theatre or theatres in respect of which he is licensed. 30

(3) Every person who commits an offence against this section shall be liable on summary conviction to a fine of *one hundred* pounds. 35

New.

Minister may require production of documents by renters or exhibitors.

12A. (1) The Minister may from time to time, by writing under his hand, require any person who is engaged in the business of renting or exhibiting films to produce for his inspection, or for the inspection of any person authorized in writing by the Minister in that behalf, any books or documents in the possession or control of such person in relation to such business, and to allow copies of 40

New.

or extracts from such books or documents to be made by the person so inspecting.

5 (2) If default is made by any person in complying with any order of the Minister under this section, such person and every other person who counsels, procures, or is otherwise knowingly concerned in such default shall be liable on summary conviction to a fine of *one hundred pounds*.

10 **13.** (1) In addition to the powers conferred on him by section forty-three of the principal Act, the Governor-General may, by Order in Council under that section, make such regulations in relation to the renting or exhibition of films as he considers necessary for the prevention or suppression of any methods of competition, trading, or business that are considered to be unfair or to be prejudicial to the public welfare.

Governor-General may make regulations to prevent monopolies and otherwise to regulate the film industry.

15 (2) Such regulations may authorize the person for the time being having authority to issue licenses under the principal Act to refuse in any special circumstances indicated therein to grant a renter's license or an exhibitor's license to any applicant therefor.

Miscellaneous.

25 **14.** On the conviction of the holder of an exhibitor's license or of a renter's license for any offence against the principal Act (including this Act), the convicting Court may, in addition to any other penalty, cancel such license, and may direct that the person convicted shall not be qualified to receive a new license in respect of the same or any other premises for such period, not exceeding *twelve months*, as the Court may determine.

Court may, on conviction of licensee, order cancellation of license.

30 **15.** Section forty of the principal Act is hereby amended by omitting the words "not less than" before the words "twelve and one-half per centum".

Modification of provisions for computation of taxable income derived from business of renting films.