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Act No. 21 of 1994 [incorporating modifications made by Statutory Instrument 90/1997, and amendments made by Criminal Penalties Amendment Act, 2001 (No. 22 of 2001)]

Not yet in force as at 1st January, 2005 (but will come into force on 1st July, 2005, being the date fixed by the President in terms of section 2(2) of Act – see Statutory Instrument 226/2004).

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# ACT

To amend the Censorship and Entertainments Control Act [*Chapter 10:04*].

ENACTED by the President and Parliament of Zimbabwe.

## 1 Short title and date of commencement

(1) This Act may be cited as the Censorship and Entertainments Control Amendment Act, 1994.

(2) This Act shall come into operation on a date to be fixed by the President by notice in the *Gazette*, which date shall not be earlier than six months after the date of publication of the notice.

[Note: 1st July, 2005, is the date so fixed, by Statutory Instrument 226/2004]

## 2 New Part inserted in Cap. 78

The Censorship and Entertainments Control Act [*Chapter 10:04*] (hereinafter called “the principal Act”) is amended by the insertion after Part VI of the following Part—

### “PART VIA

#### LICENSING OF DISTRIBUTORS OF RECORDED VIDEO OR FILM MATERIAL

### 17A Interpretation in Part VIA

(1) In this Part—

“distribute” includes to sell, batter or let for hire, but does not include the transmission through the post or otherwise of recorded video or film material for the purpose of processing the film recorded thereon for the private use of an individual;

“licence” means a licence issued in terms of section *seventeen D*.

## **17B Distributors of recorded video or film material to be licensed**

(1) No person shall—

- (a) carry on the business of distributing recorded video or film material; or
- (b) advertise, display or offer any recorded video or film material for distribution;

except in accordance with the terms and conditions of a licence.

(1a) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(2) The Board may, subject to such conditions as it thinks fit, exempt from all or any of the provisions of subsection (1)—

- (a) any recorded video or film material or any class of such material; or
- (b) any person or class of persons;

and may at any time amend or withdraw any such exemption.

(3) The Board shall cause notice of any exemption in terms of subsection (2), and of any amendment or withdrawal thereof, to be published in the *Gazette*.

## **17C Applications for licences**

A person who wishes to obtain a licence may apply therefor to the Board in the prescribed form and shall remit with his application the prescribed fee.

## **17D Issue or refusal of licences**

(1) Subject to this section, on receipt of an application in terms of section *seventeen C* the Board, after conducting such investigation or inquiry as it considers necessary or desirable—

- (a) may issue or refuse to issue a licence to the applicant; and
- (b) if it issues a licence, may specify such conditions therein relating to the conduct of the applicant's business as it considers necessary or desirable to fix.

(2) Where the Board intends to—

- (a) refuse to issue a licence to an applicant; or
- (b) issue a licence subject to any condition fixed in terms of paragraph (b) of subsection (1);

the Board shall inform the applicant in writing of its intention and the reasons therefor and that he may, within such reasonable period as the Board may specify, make written representations to the Board in relation to the intended refusal or condition.

(3) If, after considering any representations made to it in terms of subsection (2), the Board remains of the opinion that it should refuse to issue a licence to the applicant concerned or that it should fix the condition concerned, as the case may be, the Board shall inform the applicant as soon as possible—

- (a) of its decision and the reasons therefor;

- (b) that he may, if he wishes, appeal to the Appeal Board in terms of section *nineteen*.

#### **17E Form and duration of licences**

(1) A licence shall be in the prescribed form and shall be subject to such terms and conditions as may be prescribed, in addition to any conditions fixed by the Board in terms of paragraph (b) of subsection (1) of section *seventeen D*.

(2) A licence shall be valid for such period as may be prescribed and may be renewed on payment of the prescribed fee.

#### **17F Cancellation of licence or imposition or variation of conditions therein**

(1) If at any time the Board considers that, because the holder of a licence has contravened any provision of this Act or has failed to comply with any condition of his licence or for any other sufficient cause, it would be in the public interest for—

- (a) the licence to be cancelled; or
- (b) conditions or further conditions to be specified in the licence; or
- (c) existing conditions specified in the licence to be varied;

the Board shall give written notice thereof to the holder of the licence and shall—

- (i) specify the grounds on which the Board's opinion is based; and
- (ii) indicate that the holder of the licence may, within such reasonable period as the Board shall specify, make written representations to the Board in relation to the matter.

(2) If, after considering any representations made to it in terms of paragraph (ii) of subsection (1), the Board remains of the opinion that it should in the public interest take any action referred to in paragraph (a), (b) or (c) of that subsection, the Board shall—

- (a) inform the holder of the licence concerned—
  - (i) of its decision and the reasons therefor; and
  - (ii) that he may, if he wishes, appeal to the Appeal Board in terms of section *nineteen*;
 and
- (b) require the holder of the licence concerned to return the licence to the Board for cancellation or for the appropriate condition to be specified in the licence or to be varied, as the case may be.

(3) A holder of a licence who has been required to return the licence to the Board in terms of paragraph (b) of subsection (2) shall do so within thirty days of being notified of the requirement.

(4) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment

**17G Licence holders not exempt from requirements of other enactments regarding licensing, etc.**

Possession of a licence in terms of this Part shall not exempt the holder of the licence from having to obtain a licence, permit or authority in terms of any other enactment.”.

**3 Amendment of section 19 of Cap. 78**

Section 19 of the principal Act is amended by the insertion after subsection (4) of the following subsection—

“(5) Unless the Minister otherwise directs by notice in writing to the board and the appellant concerned, the noting of an appeal in terms of this section shall not have the effect of suspending the decision of the Board which is the subject of the appeal.”.

**4 New section substituted for section 25 of Cap. 78**

Section 25 of the principal Act is repealed and the following is substituted—

**"25 Powers of search and seizure**

(1) In this section—

“officer” means—

- (a) a police officer; or
- (b) a probation officer; or
- (c) an officer as defined in section 2 of the Customs and Excise Act [*Chapter 23:02*] or section 2 of the Postal and Telecommunication Services Act [*Chapter 12:02*]; or
- (d) any person appointed by the Minister to be an officer for the purposes of this section.

(2) Subject to this section, whenever there are reasonable grounds for believing that it is necessary to do so for the prevention, investigation or detection of an offence in terms of this Act, an officer may enter and search any premises in or on which a business such as is referred to in paragraph (a) of subsection (1) of section *seventeen B* is being carried on, and may require any person carrying on any such business to produce a licence issued in terms of Part VIA in respect of such business.

(3) Subject to this section, an officer may seize any—

- (a) publication, picture, statue or record; or
- (b) recorded video or film material; or
- (c) material which is believed on reasonable grounds to be recorded video or film material;

for examination by the Board or for the purposes of any criminal proceedings relating thereto.

(4) An officer who seizes any article in terms of subsection (3) for examination by the Board shall cause it to be forwarded to the Board as soon as possible after such

seizure, and the Board shall not retain the article any longer than is necessary for such examination.

(5) An officer who is not a police officer and who seizes any article in terms of subsection (3) for the purposes of any criminal proceedings shall deliver the article as quickly as possible to a police officer, and the article shall thereafter be dealt with in terms of Part VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*].

(6) The Minister shall furnish every officer appointed in terms of paragraph (d) of the definition of “officer” in subsection (1) with a letter or other written notification of his appointment as such, and the officer shall, on request, display such letter or notification to any interested person.

(7) Any person who hinders or obstructs an officer in the exercise of his powers under this section shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(8) The powers conferred on officers under this section shall be additional to their powers under any other law.”.

## **5 Amendment of section 28 of Cap. 78**

Section 34 of the principal Act is amended—

(a) by the insertion after paragraph (f) of the following paragraph—

(f1) the regulation of businesses in respect of which licences have been issued in terms of Part VIA;”;

(b) by the insertion after paragraph (g) of the following paragraph—

(h) the destruction or disposal of any publication, picture, statue, record, material or thing which has been declared to be undesirable or prohibited.”.