

20 JUL 2023

Bill No. XLVI of 2023

THE CINEMATOGRAPH (AMENDMENT) BILL, 2023

A

BILL

further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Cinematograph (Amendment) Act, 2023.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Throughout the Cinematograph Act, 1952 (hereinafter referred to as the principal Act), for the letters and word ‘‘UA’’ certificate’, wherever they occur, the letters and words ‘‘UA’’ Certificate with any UA marker’ shall be substituted.
- 3. In section 1 of the principal Act, in sub-section (3), the proviso shall be omitted.

Short title and commencement.

Construction of reference of certain expressions by certain other expressions.

Amendment of section 1.

37 of 1952.

Amendment
of section 2.

4. In section 2 of the principal Act,—

(i) after clause (dd), the following clause shall be inserted, namely:—

‘(ddd) “infringing copy” shall have the same meaning as assigned to it in sub-clause (ii) of clause (m) of section 2 of the Copyright Act, 1957;’; 14 of 1957.

(ii) after clause (h), the following clause shall be inserted, namely:— 5

‘(i) “UA marker” means an age-based indicator for a film which has received or is intended to receive a “UA” certificate under section 4 and such indicator may be “UA 7+” or “UA 13+” or “UA 16+”:

Provided that where the Central Government is satisfied that it is necessary or expedient so to do in public interest, it may, by an order published in the Official Gazette and for the reasons to be recorded in writing, declare such other indicators.’. 10

Substitution
of new section
for section 4.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

Examination
of films.

‘4. (1) Any person desiring to exhibit any film shall make an application to the Board for a certificate in such form and manner as may be prescribed. 15

(2) The Board may, after examining the film in such manner as may be prescribed,—

(i) sanction the film for unrestricted public exhibition:

Provided that, having regard to any material in the film, if the Board is of the opinion that viewing of such film by any child between seven to eighteen years of age is subject to guidance of parents or lawful guardian, then the Board may sanction the film for unrestricted public exhibition with an endorsement to that effect containing UA marker. 20

Explanation.—For the removal of doubts, it is hereby clarified that— 25

(a) the expression “seven” denotes completion of seven years of age and the expression “eighteen” denotes before attaining the age of eighteen years;

(b) an endorsement by the Board shall enable the parents and lawful guardian of the child to consider whether such child should view such a film, and shall not be enforced by any person other than the parents or lawful guardian of the child; 30

(ii) sanction the film for public exhibition restricted to adults;

(iii) sanction the film for public exhibition restricted to members of any profession or any class of persons having regard to the nature, content and theme of the film; 35

(iv) direct the applicant to carry out such excisions or modifications in the film as it may deem necessary before sanctioning the film for public exhibition under clauses (i), (ii) and (iii); or

(v) refuse to sanction the film for public exhibition: 40

Provided that no action under this section shall be taken by the Board, unless the applicant has been given an opportunity of being heard in the matter.

- (3) Any person desiring to exhibit on television or such other media as may be prescribed, any film which has been sanctioned by the Board under clause (ii) or clause (iii) of sub-section (2), may make an application to the Board in such form and manner as may be prescribed, and the Board may, for this purpose, sanction the film with a separate certificate, after directing the applicant to carry out such excisions or modifications in the film as it may think fit.’
- 5
6. In section 5A of the principal Act, in sub-section (3), the words “for a period of ten years” shall be omitted. Amendment of section 5A.
7. In section 6 of the principal Act,— Amendment of section 6.
- 10 (a) sub-section (1) shall be omitted;
- (b) in sub-section (2), in the opening portion, for the words, brackets and figure “Without prejudice to the powers conferred on it under sub-section (1)”, the words “Subject to the provisions of this Act” shall be substituted.
8. After section 6A of the principal Act, the following sections shall be inserted, 15 namely:— Insertion of new sections 6AA and 6AB.
- ‘6AA. No person shall use any audio-visual recording device in a place licensed to exhibit films with the intention of making or transmitting or attempting to make or transmit or abetting the making or transmission of an infringing copy of such film or a part thereof. Prohibition of unauthorised recording.
- 20 *Explanation.*—For the purposes of this section, the expression “audio-visual recording device” means a digital or analogue photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted cinematographic film or any part thereof, regardless of whether audio-visual recording is the sole or primary purpose of the device.
- 25 6AB. No person shall use or abet the use of an infringing copy of any film to exhibit to the public for profit— Prohibition of unauthorised exhibition of films.
- (a) at a place of exhibition which has not been licensed under this Act or the rules made thereunder; or
- (b) in a manner that amounts to the infringement of copyright under the provisions of the Copyright Act, 1957 or any other law for the time being in force.’.
- 14 of 1957. 30
9. In section 7 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:— Amendment of section 7.
- 14 of 1957. 35 ‘(1A) Save as otherwise provided in section 52 of the Copyright Act, 1957, if any person contravenes the provisions of section 6AA or section 6AB, he shall be punishable with imprisonment for a term which shall not be less than three months, but may extend to three years and with a fine which shall not be less than three lakh rupees but may extend to five per cent. of the audited gross production cost.
- (1B) Notwithstanding anything contained in this section—
- 40 (i) a person aggrieved by a contravention under section 6AA or section 6AB shall not be prevented from taking suitable action for an infringement under section 51 of the Copyright Act, 1957 or from taking suitable action for computer related offences under section 66 of the Information Technology Act, 2000 or any other relevant laws for the time being in force;
- 14 of 1957. 21 of 2000.
- 45 (ii) the appropriate Government or its agencies shall not be prevented from taking suitable action against an intermediary as defined under clause (w)

of sub-section (1) of section 2 of the Information Technology Act, 2000, where such intermediary acts in the manner as set out under sub-section (3) of section 79 of the said Act or any other law for the time being in force. 21 of 2000.

Explanation.—For the purposes of this sub-section, the expression “appropriate Government” shall have the same meaning as assigned to it in clause (e) of sub-section (1) of section 2 of the Information Technology Act, 2000.’ 5 21 of 2000.

Amendment
of section 8.

10. In section 8 of the principal Act, in sub-section (2), for clause (c), the following clauses shall be substituted, namely:—

“(c) the form and manner of making an application to the Board for a certificate under sub-section (1) of section 4; 10

(ca) the manner of examination of film under sub-section (2) of section 4;

(cb) the media for exhibition of film and the form and manner of making an application to the Board in this regard under sub-section (3) of section 4;”. 15

STATEMENT OF OBJECTS AND REASONS

The Cinematograph Act, 1952 (the Act) was enacted with a view to make provisions for the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematographs.

2. The medium of cinema, the tools, the technology associated with it and its audience have undergone vital changes over a period of time. The certification process for public exhibition needs to be contemporised in order to make the process in tune with the changed time. Further, the film industry has been impacted by the advent of new digital technology, decline in number of the people visiting cinema theatres, increase in piracy of the films through internet or social media, copyright violations and the like which in turn also causes loss to the Government exchequer.

3. The Cinematograph (Amendment) Bill, 2023 aims to comprehensively address the issues relating to film certification. The Bill attempts to—

(i) address the issue of unauthorised recording and exhibition of films and curb the menace of film piracy by transmission of unauthorised copies on the internet;

(ii) improve the procedure for certification of films for public exhibition by the Central Board of Film Certification, as well as to improve the categorisations of the certification of the films; and

(iii) harmonise the law with extant executive orders, judicial decisions and other relevant legislations.

4. The Cinematograph (Amendment) Bill, 2023, *inter alia*, provides for the following, namely:—

(a) to substitute section 4 of the Act, relating to examination of films, so as to introduce the age-based certification in "UA" category into three age-based categories, namely "UA 7+", "UA 13+" and "UA 16+" and also to empower the Board to sanction the film with a separate certificate for its exhibition on television or such other media as may be prescribed;

(b) to amend sub-section (3) of section 5A of the Act so as to give perpetual validity to the certificate of Central Board of Film Certification;

(c) to omit sub-section (1) of section 6 of the Act relating to revisional powers of the Central Government in the light of Supreme Court judgment in the matter of Union of India Vs. K.M. Shankarappa; and

(d) to insert new sections 6AA and 6AB relating to "Prohibition of unauthorised recording" and "Prohibition of unauthorised exhibition of films" respectively.

The proposed amendments would make the certification process more effective, in tune with the present times, and comprehensively curb the menace of film piracy, and thus help in faster growth of the film industry and boost job creation in the sector.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;

ANURAG SINGH THAKUR.

The 26th May, 2023.

FINANCIAL MEMORANDUM

The Bill, if enacted, would not involve any financial expenditure either recurring or non-recurring from and out of the Consolidated Fund of India.

ANNEXURE

EXTRACTS FROM THE CINEMATOGRAPH ACT, 1952

(37 OF 1952)

*	*	*	*	*
<p>1. (1)</p> <p>(3) This Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:</p> <p>Provided that Parts I and II shall come into force in the State of Jammu and Kashmir only on such date after the commencement of the Cinematograph (Amendment) Act, 1973, as the Central Government may, by notification in the Official Gazette, appoint.</p>	*	*	*	*
				Short title, extent and commencement.
26 of 1973.				
<p>2. In this Act, unless the context otherwise requires,—</p> <p>(dd) "film" means a cinematograph film;</p>	*	*	*	*
				Definitions.
<p>4. (1) Any person desiring to exhibit any film shall in the prescribed manner make an application to the Board for a certificate in respect thereof, and the Board may, after examining or having the film examined in the prescribed manner,—</p> <p>(i) sanction the film for unrestricted public exhibition:</p> <p>Provided that, having regard to any material in the film, if the Board is of the opinion that it is necessary to caution that the question as to whether any child below the age of twelve years may be allowed to see such a film should be considered by the parents or guardian of such child, the Board may sanction the film for unrestricted public exhibition with an endorsement to that effect; or</p> <p>(ii) sanction the film for public exhibition restricted to adults; or</p> <p>(iia) sanction the film for public exhibition restricted to members of any profession or any class of persons, having regard to the nature, content and theme of the film; or</p> <p>(iii) direct the applicant to carry out such excisions or modifications in the film as it thinks necessary before sanctioning the film for public exhibition under any of the foregoing clauses; or</p> <p>(iv) refuse to sanction the film for public exhibition.</p> <p>(2) No action under the proviso to clause (i), clause (ii), clause (iia), clause (iii) or clause (iv) of sub-section (1) shall be taken by the Board except after giving an opportunity to the applicant for representing his views in the matter.</p>	*	*	*	*
				Examination of films.
<p>5A. (1)</p> <p>(3) Subject to the other provisions contained in this Act, a certificate granted by the Board under this section shall be valid throughout India for a period of ten years.</p>	*	*	*	*
				Certification of films.

Revisional powers of the Central Government.

6. (1) Notwithstanding anything contained in this Part, the Central Government may, of its own motion, at any stage, call for the record of any proceeding in relation to any film which is pending before, or has been decided by, the Board, or, as the case may be, decided by the Tribunal (but not including any proceeding in respect of any matter which is pending before the Tribunal) and after such inquiry, into the matter as it considers necessary, make such order in relation thereto as it thinks fit, and the Board shall dispose of the matter in conformity with such order:

Provided that no such order shall be made prejudicially affecting any person applying for a certificate or to whom a certificate has been granted, as the case may be, except after giving him an opportunity for representing his views in the matter:

Provided further that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against public interest to disclose.

(2) Without prejudice to the powers conferred on it under sub-section (1), the Central Government may, by notification in the Official Gazette, direct that—

(a) a film which has been granted a certificate shall be deemed to be an uncertified film in the whole or any part of India; or

(b) a film which has been granted a "U" certificate or a "UA" certificate or a "S" certificate shall be deemed to be a film in respect of which an "A" certificate has been granted; or

(c) the exhibition of any film be suspended for such period as may be specified in the direction:

Provided that no direction issued under clause (c) shall remain in force for more than two months from the date of the notification.

* * * * *

Power to make rules.

8. (1) * * * * *

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

* * * * *

(c) the manner of making an application to the Board for a certificate and the manner in which a film has to be examined by the Board and the fees to be levied therefore;

* * * * *

RAJYA SABHA

A

BILL

further to amend the Cinematograph Act, 1952.

(Shri Anurag Singh Thakur, Minister of Information and Broadcasting)