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NOTIFICATION

No.LJD. 4/90/20, the 12th June, 1990. The following Act of the Mizoram Legislative Assembly which received the assent of the Governor is hereby published for general information.

The Mizoram Act No. 7 of 1990
The Mizoram Exhibition of Films on
Television Screen Act, 1990

(Received the assent of the Governor of Mizoram the 23rd May 1990).

AN ACT

to provide for regulation of the exhibition of films on Television screen through Video Cassette Players in the State of Mizoram and for matter incidental or ancillary thereto :

BE it enacted by the Legislature of the State of Mizoram in the Forty-First year of the Republic of India as follows :—

1. SHORT TITLE, EXTENT AND COMMENCEMENT.— (1) This Act may be called the Mizoram Exhibition of Films on Television Screen through Video Cassette Players Act, 1990.

(2) It extends to the whole of the State of Mizoram.

(3) It shall come into force on such date as the State Government may, by notification in official Gazette appoint.

2. DEFINITION.- In this Act, unless the context otherwise requires.-

- (1) "Cinematograph" includes an apparatus for the representation of moving pictures or series of pictures;
- (2) "Film" means a cinematograph film recorded on Video Cassette tape;
- (3) "Government" means the State Government of Mizoram;
- (4) "Licensing authority" means the Deputy Commissioner of the District;
- (5) "Place" includes a house, building, tent and any description of transport, whether by water, land or air;
- (6) "Video Cassette Players" means a cinematograph for the purpose of giving cinematograph exhibition of film recorded on Video cassette tape;
- (7) "Video Library" means a place by whatever name called where, the business of selling, letting to hire distribution, exchange or putting into circulation in any manner whatsoever of film for purpose of exhibition is carried on.

3. EXHIBITION OF FILM TO BE LICENSED.- (1) Save as otherwise provided in this Act, no person shall give an exhibition of film on Television screen through Video Cassette Players (a) except under and in accordance with a licence granted under section 6, read with section 5 of this Act; and (b) elsewhere than in a place for which permission has been granted under section 7 read with section 5 of this Act. (c) Where, in respect of any place, a licence has been granted under this Act for exhibition of film on Television screen through Video Cassette Players, no business other than the exhibition of film on Television screen through Video Cassette Players shall be carried on in such place, by any person and at any time.

(2) Nothing contained in sub-section (1) shall apply to any exhibition of film on Television screen through Video Cassette Players for domestic purposes to the family members of the household only.

4. KEEPING A VIDEO LIBRARY TO BE LICENSED.- (1) Save as otherwise provided in this Act, no person shall keep any Video Library except under, and in accordance with, a licence granted under this Act.

(2) Where a person keeps more than one Video Library, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such Video Library.

(3) Every licence for keeping a Video Library shall, save as otherwise provided in this Act, expire on the last day of the year in which it was granted but may be renewed year to year.

5. GRANT OF LICENCE,- (1) Every application for a licence or permission under this Act shall be in writing and contain-

- (a) the name of the applicant;
- (b) the place at which the exhibition is to be given or the Video Library is to be kept;
- (c) the number of seats to be installed, in the cases of exhibition of film; and
- (d) such other particulars as may be prescribed.

(2) Every licence or permission under this Act shall be granted in such form and subject to such terms, conditions, and restrictions, and on payment of such fee not exceeding fifty rupees as may be prescribed.

6. RESTRICTIONS ON POWER OF LICENSING AUTHORITY.- (1) The Licencing authority shall, in deciding whether to grant or refuse a licence for exhibition of film, have regard to the following matters, namely :—

- (a) the interest of the public generally ;
- (b) the status, antecedents and previous experience of the applicant

EXPLANATION :- For the purpose of this clause, the expression "antecedents" means the conduct of the applicant in relation to the payment of any tax or dues payable by him to the Government ;

(c) the suitability of the place where the exhibition of film on Television screen through Video Cassette Players is proposed to be given ;

(d) the adequacy of existing places for the exhibition of film on Television screen through Video Cassette players in the locality ;

(e) the benefit to any particular locality or localities to be afforded by the opening of new places of exhibition of film on Television screen through Video Cassette Players ;

(f) the possession by the applicant, of other places, if any, licensed under this Act, whether in the same locality or elsewhere, and whether at the time of applying for the licence or at any previous time ; and shall also take into consideration any representations made by persons already giving exhibition of cinematograph film or films on Television screen through Video cassette Players in or near the proposed locality or by any local authority or police authority within whose jurisdiction the place proposed to be licensed is situated or by any association interested in the giving of exhibition of cinematograph film or films on Television screen through Video Cassette Players.

(2) The licensing authority shall, in deciding whether to grant or refuse to grant or renew or refuse to renew a licence for keeping any Video library, have regard to the interest of the public generally and to such other matters as may be prescribed.

(3) The licensing authority shall not grant a licence under this Act unless it is satisfied ;

(a) That the rules made under this Act have been substantially complied with ; and

(b) in case of an application for the grant of a licence for exhibition of film, that adequate precautions have been taken in the place, in respect of which the licence is to be granted, to provide for the safety, convenience and comfort of the persons attending exhibitions therein.

(4) The licensing authority may, by order in writing, refuse to grant licence for exhibition of film or refuse to grant or renew a licence for keeping any Video Library if such authority is satisfied that—

(a) the applicant has not complied with the provisions of this Act or the rules made thereunder in respect of the application for the grant of a licence ; or

(b) the applicant has made wilful default in complying with or knowingly acted in contravention of any requirement of this Act or the rules made thereunder or the terms and conditions of, and restrictions upon, any licence granted under this Act ; or

(5) The licensing authority may after consideration of the matters set forth in sub-section (1) limit the number of places in any area in respect of which licences to exhibit film on Television screen through Video Cassette Players under this Act may be granted.

(6) The licensing authority shall not grant a licence unless it is satisfied that adequate precautions have been taken in the place, in respect of which the licence has to be granted to provide for the safety, convenience and comfort of the persons attending exhibitions therein or, as the case may be, visiting the Video Library.

(7) In granting or refusing to grant a licence under this Act, the licensing authority may consult such authority or officer as may be prescribed.

(8) Subject to the foregoing provisions of this section, the licensing authority may grant licences under this Act to such persons and on such terms and conditions and subject to such restrictions as it may determine. When the licensing authority refuses to grant any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

(9) Every licence under this Act shall be personal to the person to whom it is granted and no transfer or assignment thereof, whether absolute or by way of security or otherwise shall be valid unless approved in writing by the licensing authority.

7. LICENSING AUTHORITY TO PERMIT CONSTRUCTION AND RECONSTRUCTION OF BUILDING INSTALLATION OF MACHINERY ETC. FOR EXHIBITION OF FILM :- (1) Any person who intends—

(a) to use any place for the exhibition of film on Television screen through Video Cassette player ; or

(b) to use any site for constructing a building thereon for the exhibition of film on Television screen through Video Cassette players; or

(c) to construct or reconstruct any building for such exhibition of film, or

(d) to install any machinery in any place where such exhibition of any film are proposed to be given, shall make an application in writing to the licensing authority for permission thereof together with such particulars as may be prescribed.

(2) The licensing authority shall thereupon after consulting such authority or officer as may be prescribed, grant or refuse permission and the provision relating to licences for exhibition of film on Television screen through Video Cassette players shall so far as may be, apply for permission under this section.

8. POWER TO ISSUE DIRECTION- (1) The Government may issue such orders and directions of a general character as they may consider necessary, in respect of any matter relating to licences for the exhibition of film on Television screen through Video Cassette players or the keeping of the Video Library to licensing authorities: and every licensing authority shall give effect to such orders and directions.

(2) The licensing authority may, from time to time issue directions to any licensee or licensees generally to whom licence for exhibition of film is granted under this Act, requiring the licensee or licensees to exhibit in each show such slides of public interest as may be supplied by the authority;

Provided that no direction issued under this section shall require the licensee to exhibit more than three such slides at, or for more than four minutes in, any one show.

9. LICENSEE TO EXHIBIT ONLY CERTIFIED FILMS- (1) No person licensed under this Act to give an exhibition of film on Television screen through Video Cassette players shall exhibit or permit to be exhibited any film other than a film which has been certified as suitable for public exhibition by the authority constituted under section 3 of the Cinematograph Act, 1952 (Central Act 1952), and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto.

(2) No person licensed under this Act for keeping a Video Library shall sell, let to hire, distribute, exchange or put into circulation in any manner whatsoever any film other than a film which has been certified as suitable for public exhibition by the authority constituted under section 3 of the Cinematograph Act 1952 (Central Act XXXVII of 1952), and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto.

10. POWER OF GOVERNMENT OR LICENSING AUTHORITY TO SUSPEND EXHIBITION OF FILM IN CERTAIN CASES:- (1) The Government in respect of the whole of the State or any part thereof, and the licensing authority within his jurisdiction, may, if they or he are or is of opinion that any film which is being or is about to publicly exhibited, is likely to cause a breach of

the peace, by order, suspend the exhibition of such film on Television screen through Video Cassette players and during such suspension, no person shall exhibit such film or permit it to be exhibited in any place in the State or any part or district thereof, as the case may be.

(2) No order shall be issued under sub-section (1) until the person concerned has been given a reasonable opportunity of showing cause against the order proposed to be issued in regard to him.

(3) Where an order under sub-section (1) has been issued by the licensing authority, a copy thereof, together with a statement of the reasons therefor, shall forthwith be forwarded by him to the Government and the Government may, on a consideration of all the facts of the case either confirm or vary or discharge the order.

(4) An order issued under sub-section (1) shall remain in force for a period of four weeks from the date thereof, but the Government may, if they are of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period as they think fit:

Provided that the Government or the licensing authority may review their own order.

Power to revoke or suspend licence (1) Where the holder of a licence for exhibition of film has been convicted of an offence under this Act the licence may be revoked or suspended by the licensing authority by an order in writing:

(2) If the licensing authority is satisfied, either on a reference made to it in this behalf or otherwise, that

(a) a licence granted under this Act has been obtained by misrepresentation or fraud as to an essential fact, or

(b) the licensee has, without reasonable cause, failed to comply with any of the provisions of this Act or of these rules made thereunder, or any of the terms and conditions of, or restrictions upon, or subject to which the licence has been granted, then without prejudice to any other penalty to which the licensee may be liable under this Act the licensing authority may after giving the licensee an opportunity of showing cause, revoke or suspend the licence.

(3) Where the licensing authority revokes or suspends any licence under sub-section (2) it shall do so by an order communicated to the licensee giving the reasons in writing for such revocation or suspension.

12. APPEAL.— (1) Any person aggrieved by an order of the licensing authority refusing to grant or renew a licence or an order of revocation or suspension of a licence or a decision refusing to approve any transfer or assignment of licence under this Act may, within such time and on payment of such fee as may be prescribed appeal to the Government in General Administration Department or

such other authority as the Government may specify in this behalf. The Government may specify in this behalf. The Government in the General Administration Department or such authority may make such orders as it may think fit.

(2) The appellate authority referred to in sub-section (1) may stay the execution of any such order pending exercise of its power under sub-section (1) in respect thereof.

13. **POWERS OF REVISION BY GOVERNMENT.**— (1) Government may on their own motion or on application call for and examine the record of the appellate authority in respect of any proceeding under this Act to satisfy themselves as to the legality of such proceeding or the correctness of legality or propriety of any order made thereunder and if in any case it appears to the Government that any such proceeding or order should be modified, annulled, reversed or remitted for consideration, they may pass orders accordingly.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Government may stay the proceeding or the execution of the order pending the exercise of their power under sub-section (1) in respect thereof.

14. **PENALTIES:**— (1) Any person who contravenes or attempts to contravene or abets the contravention of the provision of section 9 shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both and in the case of a continuing offence with a further fine which may extend to one thousand rupees for each day during which the offence continues.

(2) Any person who contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act other than section 9 or any rule made thereunder or of the terms and conditions of, and restrictions upon, any licence granted under this Act shall be punishable with imprisonment which may extend to one year and shall also be liable to fine.

15. **OFFENCES BY COMPANIES.**— (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, Secretary or other officer of the company, such director, manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly,

EXPLANATION - For the purpose of this section -

(a) "Company" means anybody corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm

16. "POWER TO ENTER, SEARCH AND SEIZE - (1) It shall be lawful for any police officer not below the rank of D.S.P.—

(a) to enter, if necessary by force, whether by day or night, with such assistance as he considers necessary, and premises, which he has reason to suspect are being used for purposes connected with the exhibition of film on the Television screen through Video Cassette players or keeping a Video Library in contravention of the provisions of this Act;

(b) to serve the premises and persons whom he may find therein;

(c) to take into custody and produce before a judicial Magistrate all such persons as are concerned or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of their having been concerned with the exhibition of film or keeping a Video Library in contravention of the provisions of this Act;

(d) to seize all things found therein which are intended to be used or reasonably suspected to have been used in connection with such exhibition of film or keeping a Video Library.

(2) All searches under this section shall be made in accordance with the provision of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

17. CONFISCATION OF FILM— Films exhibited or kept in contravention of the provisions of this Act, the rules made thereunder or the terms and conditions, of, and restrictions upon a licence granted under this Act along with the Video Cassette players, if any, used in the exhibition of film shall be liable to confiscation by an order of the court having jurisdiction.

18. POWER TO TRY OFFENCE— No court inferior to that of a District Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

19. OFFENCE UNDER THIS ACT TO BE COGNIZABLE—Any offence punishable under this Act shall be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

20. POWER TO EXEMPT— Notwithstanding anything contained in this Act, if the Government are satisfied that it is necessary or expedient in the public interest so to do, they may, by notification, exempt, subject to such conditions as they deem fit, any class of persons from the provisions of this Act in so far as they relate to the exhibition of film on Television screen through Video Cassette Players.

21. POWER TO MAKE RULES— (1) The Government may make rules for carrying out all or any of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) (i) the form and the particulars to be furnished in an application for grant of licence under this Act;

(ii) the guidelines to determine the suitability of the place for the purpose of clause (c) of sub-section (1) of section 6;

(b) the form in which, and the terms, conditions and restrictions subject to which, a licence under section 3 or under section 4 may be granted, the fees to be paid in respect of such licence and the authority or officer which or who may be consulted in granting such licence;

(c) the procedure to be followed by persons submitting application for permission under section 7;

(d) the documents and plans to be submitted together with such applications, and the fees to be paid on such applications;

(e) the matter to be taken into consideration by the licensing authority before approving the site for the construction of the building, or the plans for the construction or reconstruction of the building or the installation of machinery;

(f) the terms, conditions and restrictions subject to which the licensing authority may accord approval in respect of the matters referred to in clause (e);

(g) the action to be taken in cases of contravention of the terms, conditions and restrictions subject to which such approval was accorded;

(h) the procedure to be followed by the licensing authority before granting or refusing permission under section 7 and any other matter incidental thereto;

(i) the form in which the letter of consent under section 9 shall be obtained and the manner of display of such letter of consent; and

(j) the fee to be paid in respect of an appeal or application for revision.

(3) (a) All rules made under this Act shall be published in the Govt. of Mizoram Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, the House agrees in making any modification in any such rule or notification or the House agrees that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of

no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

22. SAVINGS - (1) (i) Every person giving an exhibition of film on Television screen through Video Cassette players, or

(ii) every person keeping any Video Library, immediately before the commencement of this Act shall obtain a licence under this Act, within a period of 8 weeks from the said date.

(2) If the person referred to in sub-section (1) fails to obtain the licence within the period mentioned in sub-section (1), he shall discontinue such exhibition and in the case of Video Library, he shall close such Video Library.

(3) Save as otherwise provided in sub-section (3), the provisions of this Act, shall be in addition to and not in derogation of, the Cinematograph Act, 1952 (Central Act XXXVII of 1952) and any other law for the time being in force ; and nothing contained herein shall exempt any person from any proceeding by way of investigation or otherwise which might, apart from this Act, be instituted against him.

K.N. Srivastava,
Secretary to the Govt. of Mizoram,
Law, Judicial & Parliamentary Affairs Department.