

LEGISLATIVE COUNCIL BRIEF

Film Censorship Ordinance (Chapter 392)

FILM CENSORSHIP (AMENDMENT) REGULATION 1999

INTRODUCTION

In exercise of the power conferred on him by Section 29(1) of the Film Censorship Ordinance (the Ordinance), the Secretary for Information Technology and Broadcasting (the Secretary) made the Film Censorship (Amendment) Regulation 1999 (the Amendment Regulation) at Annex on 23 March 1999.

BACKGROUND AND ARGUMENT

2. Government has undertaken in the Final Report of the Government Task Force of Services Promotion and the 1997 Policy Address to improve the operation of the Ordinance and make the regulatory regime more user and business-friendly. We have completed a review of the Ordinance and identified a number of areas which need improvements. The improvements require amendments to the Ordinance and its subsidiary legislation.

3. At the sitting on 10 March 1999, the Legislative Council passed the Film Censorship (Amendment) Bill 1998 with a few Committee Stage Amendments incorporated. The Film Censorship (Amendment) Bill 1998 was gazetted on 19 March 1999 as the Film Censorship (Amendment)

Ordinance 1999 (the Amendment Ordinance). The Amendment Ordinance enacted on 10 March 1999, among others, amends the Ordinance in the following respects -

- (a) It empowers the Secretary to make regulation to prescribe the statutory time frames for delivery of various services by the Film Censorship Authority (the Authority) to the public;
- (b) It empowers the Authority to determine and set the forms that are required for the purposes of the Ordinance administratively; and
- (c) It streamlines and simplifies the appeal procedures for members of the public.

4. The Amendment Regulation will amend the Film Censorship Regulations as a consequence of and to reflect amendments to the Ordinance relating to the determination and setting of forms and the simplification of appeal procedures for members of the public. By invoking the new Section 29(1)(p) of the Ordinance, the Secretary prescribes the statutory time frames for delivery of various services by the Authority to the public by way of Clauses 7 and 9. The opportunity is also taken to update the various statutory time frames.

THE FILM CENSORSHIP (AMENDMENT) REGULATION 1999

5. The main provisions of the Amendment Regulation are -

- (a) **Clause 1** stipulates that the commencement date of the Amendment Regulation shall be the same day as that of the Amendment Ordinance. In this regard, we plan to put the Amendment Ordinance and Amendment Regulation into effect on 17 June 1999.
- (b) **Clauses 2 to 5 and 8** reflect amendments to the Ordinance relating to the determination and setting of forms by the Authority.

- (c) **Clause 6** reflects amendments to the Ordinance relating to the simplification of appeal procedures by enabling requests from members of the public for a review of the decision of the Authority or a censor to be made to the Board of Review through the Secretary, instead of the Chief Secretary for Administration.
- (d) **Clauses 7 and 9** prescribe the statutory time for notifying a censor's decision on film classification and the issue of a Certificate of Exemption, a Certificate for Packaging and a Certificate for Advertising Material; and update the various statutory time frames.

PUBLIC CONSULTATION

6. Representatives of major film industry associations (including the Hong Kong, Kowloon and New Territories Motion Picture Industry Association Limited, Movie Producers and Distributors Association of Hong Kong Limited and Hong Kong Film Directors' Guild) have been consulted. The Amendment Ordinance as well as the Amendment Regulation have their support.

HUMAN RIGHTS IMPLICATIONS

7. The Department of Justice advises that the proposed legislation is consistent with the human rights provisions of the Basic Law.

FINANCIAL AND STAFFING IMPLICATIONS

8. The Amendment Regulation carries no staffing or financial implications.

LEGISLATIVE TIMETABLE

9. The Amendment Regulation will be published in the Gazette

on 26 March. It will be tabled at the Legislative Council for negative vetting on 31 March 1999. The Amendment Regulation will come into effect on 17 June 1999.

PUBLICITY

10. The Amendment Regulation will be published in the Gazette on 26 March 1999. We have already issued a press release on 25 November 1998 on the package of improvement measures before the Film Censorship (Amendment) Bill 1998 was introduced into the Legislative Council. As the Amendment Regulation seeks to implement the package of improvement measures, no separate publicity would be made.

ENQUIRY

11. For enquires on this brief, please contact Mr. CHAN Ka-lok, Assistant Secretary for Information Technology and Broadcasting, at telephone number 2189 2228.

Information Technology and Broadcasting Bureau
24 March 1999

FILM CENSORSHIP (AMENDMENT) REGULATION 1999

(Made under section 29 of the Film Censorship Ordinance
(Cap. 392))

1. Commencement

This Regulation shall come into operation on the day appointed for the coming into operation of the Film Censorship (Amendment) Ordinance 1999 (of 1999).

2. Submission of film under section 8

Regulation 2(b) of the Film Censorship Regulations (Cap. 392 sub. leg.) is amended by repealing “Form 1 in Schedule 1” and substituting “the form determined by the Authority under that section”.

3. Submission of packaging under section 15B(1) of the Ordinance

Regulation 2A(b) is amended by repealing “Form 5 of Schedule 1” and substituting “the form determined by the Authority under that section”.

4. Submission of advertising material under section 15K of the Ordinance

Regulation 2B(b) is amended by repealing “Form 7 in Schedule 1” and substituting “the form determined by the Authority under that section”.

5. Regulations repealed

Regulations 4, 7, 7A, 7B and 10 are repealed.

6. Requests under section 17 or 19

Regulation 8 is amended by repealing “or the Chief Secretary for Administration, as the case may require” where it twice occurs.

7. Regulation added

The following is added-

“14. Period prescribed under section 9(3), 10(5), 15B(4)(b) or 15K(5)

(1) The period prescribed under section 9(3) of the Ordinance for the Authority to issue a certificate of exemption is specified in Part I of Schedule 5.

(2) The period prescribed under section 10(5) of the Ordinance for the censor to make his decision under section 10(4) of the Ordinance is specified in Part II of Schedule 5.

(3) The period prescribed under section 15B(4)(b) of the Ordinance for the Authority to issue a certificate as regards any packaging constituting the cover of a videotape or laserdisc and submitted under section 15B(1) of the Ordinance is specified in Part III of Schedule 5.

(4) The period prescribed under section 15K(5) of the Ordinance for the Authority to approve or refuse to approve any advertising material relating to a film is specified in Part IV of Schedule 5.”.

8. Forms

Schedule 1 is repealed.

9. Schedule added

The following is added-

“SCHEDULE 5

[reg. 14]

PERIODS PRESCRIBED FOR THE PURPOSES OF THE ORDINANCE

Section of the Ordinance	Period prescribed
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PART I

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|----|--------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| 1. | 9(3) - The issue, by the Authority, of a certificate of exemption. | Not later than 5 working days after a film is submitted to and accepted by the Authority under section 8 of the Ordinance. |
|----|--------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|

PART II

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|----|----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. | 10(5) - The making, by the censor, of a decision under section 10(4) of the Ordinance. | Not later than 14 days after a film is submitted to and accepted by the Authority under section 8 of the Ordinance or such longer period, but in any case not more than 28 days after the film is so submitted and accepted as the Secretary may allow in any particular case. |
|----|----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

PART III

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|----|-----------------------------------------------|-----------------------------------------------------------------------------|
| 3. | 15B(4)(b) - The issue, by the Authority, of a | Not later than 4 working days after the submission to the Authority of such |
|----|-----------------------------------------------|-----------------------------------------------------------------------------|

certificate as regards any packaging constituting the cover of a videotape or laserdisc and submitted under section 15B(1) of the Ordinance.

packaging under section 15B(1) of the Ordinance.

PART IV

4. 15K(5) - The approval or refusal of approval, by the Authority, of any advertising material relating to a film.

Not later than 4 working days after the submission to the Authority of such advertising material under section 15K(1) of the Ordinance.”.

Secretary for Information Technology
and Broadcasting

23 March 1999

Explanatory Note

The purpose of this Regulation is to amend the Film Censorship Regulations (Cap. 392 sub. leg.) to reflect amendments to the Ordinance relating to the determination and setting of forms, the simplification of appeal procedures for members of the public and the prescribing of periods for the purposes of the Ordinance.