

LEGISLATIVE COUNCIL BRIEF

Film Censorship Ordinance
(Chapter 392)

FILM CENSORSHIP (AMENDMENT) BILL 2021

INTRODUCTION

At the meeting held on 24 August 2021, the Executive Council **ADVISED** and the Chief Executive **ORDERED** that the Film Censorship (Amendment) Bill 2021 (“the Bill”) at **Annex** should be introduced into the Legislative Council (“LegCo”).

JUSTIFICATIONS

2. The Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (“NSL”) was enacted by the Standing Committee of the National People’s Congress on 30 June 2020. Pursuant to Article 2 of the NSL, and the provisions in Articles 1 and 12 of the Basic Law on the legal status of the Hong Kong Special Administrative Region (“HKSAR”) which are the fundamental provisions in the Basic Law, no institution, organisation or individual in the HKSAR shall contravene these provisions in exercising their rights and freedoms. Article 3 of the NSL provides that it is the constitutional duty of the HKSAR to safeguard national security, and the executive authorities, legislature and judiciary of the HKSAR shall effectively prevent, suppress and impose punishment for any act or activity endangering national security in accordance with the NSL and other relevant laws. Article 6 of the NSL further provides that all institutions, organisations and individuals in the HKSAR shall abide by the NSL and the laws of the HKSAR in relation to the safeguarding of national security and shall not engage in any act or activity which endangers national security.

3. The Film Censorship Ordinance (Cap. 392) (“FCO”), which was last amended in 1999, provides that any film intended for exhibition in

Hong Kong shall be submitted to the Film Censorship Authority (“the Authority”), who shall assign a censor to view the film and decide whether the film can be approved for exhibition and, if so, its appropriate classification. In doing so, the censor shall consider (i) whether the film portrays matters such as violence, crime, sexuality, and offensive language and behaviour; and (ii) whether it denigrates or insults any class of the public by reference to matters such as race, religion and gender. In considering the above matters, the censor shall take into account the effect of the film as a whole and its likely effect on persons likely to view it; the artistic, educational, literary, scientific, social or cultural value of the film; and the circumstances of its intended exhibition. Section 30 of the FCO stipulates that the Secretary for Commerce and Economic Development (“SCED”) may from time to time cause to be prepared guidelines for censors (“Guidelines”) not inconsistent with the FCO indicating the manner in which it is proposed that censors exercise their functions.

4. Film is an important medium, art form and source of entertainment that can have a profound impact on the community, particularly for young persons and children. Following the enactment of the NSL, there have been a number of films (some of them purport to be documentaries or stories based on true events) depicting acts and activities endangering national security, such as those portraying offences under the NSL and other serious criminal behaviours disrupting public order, and it is apparent from their overall content, context and arrangement that such films would have an objective effect of endorsing, supporting, promoting, glorifying, encouraging or inciting those acts or activities, thereby undermining viewers’ awareness of national security and their obligation to abide by the law, weakening their respect of law and order, causing or encouraging them to support or imitate similar criminal behaviours, and posing risks to national security. In the light of operation experience, SCED issued an updated version of the Guidelines in June 2021 to provide clearer guidance to censors when performing film censorship duties to consider the implications of a film on national security within the statutory framework of the FCO, so as to decide whether the film is suitable for exhibition and its classification.

5. Upon review of the FCO, we recommend that it should be amended to enhance the film censorship regulatory framework to ensure more effective implementation of the duty to safeguard national security as required by the NSL, to prevent and suppress acts or activities which may endanger national security, to close any identified loopholes, and to meet the needs of recent circumstances.

Key Features of the Bill

(A) National security as one of the matters to be considered by a censor

6. The FCO sets out, among other things, matters to be considered by a censor when deciding whether a film should be approved for exhibition and its appropriate classification. We propose to set out explicitly in the FCO that a censor should consider whether the exhibition of a film would be contrary to the interests of national security, so as to provide clear statutory backing for a censor to give due consideration to national security when making film censorship decisions.

(B) Powers to be exercised on national security ground

7. Under the existing legal framework, a certificate of approval issued in respect of a film is generally not subject to any validity period. We propose to empower the Chief Secretary for Administration (“CS”) to direct the Authority to revoke certificates of approval or certificates of exemption previously issued for films if their exhibition would be contrary to the interests of national security. CS, as a member of the HKSAR Committee on National Security, which is accountable to the Central People’s Government for affairs relating to safeguarding national security in HKSAR under Article 12 of the NSL, is well positioned to make the relevant assessments and decisions.

8. Currently, the Film Censorship Regulations (Cap. 392A) stipulate that the time limit for a censor to make a decision under section 10(4) of the FCO is not later than 14 days after a film is submitted to and accepted by the Authority, or such longer period, but in any case not more than 28 days as SCED may allow in any particular case. In dealing with cases that may involve national security considerations, a censor may require more time to obtain information from the applicants, to seek legal advice, and to consult relevant parties in accordance with section 10(6) of the FCO. We therefore propose that the processing of films where the Authority is of the opinion that the exhibition of the film might be contrary to the interests of national security need not be subject to the prescribed time period, if SCED so agrees, in order to allow sufficient time for due consideration by the censor. Instead, SCED may grant extension of time for a period of no more than 28 days (which may be further extended) for the censor to make a decision.

9. At present, the Board of Review (Film Censorship) (“Review

Board”) is responsible for considering requests for review of the decisions of the Authority or a censor, as the case may be, in respect of a film, the film’s title or the packaging/advertising materials. We propose to disapply the relevant sections such that the Review Board would not process requests for reviewing any decision of the Authority or a censor made on national security ground, as consideration of such matters will involve judgement outside the Review Board’s intended remit.

(C) Penalty, enforcement and other operational measures

10. It is the existing practice for a censor to request the addition of a specific notice to a film, to serve as a reminder to or advice for viewers (or their parents) to mitigate potentially undesirable effects and to exercise their discretion when deciding whether to watch the film. The absence of such notices would result in the censor’s refusal to approve the film or inability to give the film an appropriate classification. We propose to expressly provide statutory authority for the censors to request such additions for the avoidance of doubt.

11. We notice that some organisations have been trying to circumvent enforcement actions under the FCO, such as by using social media or instant messaging applications to conceal information about the screening of films in breach of the law. In order to effectively ensure that the holders of certificates of exemption or certificates of approval comply with the regulation and relevant conditions, we propose to empower the Authority to require them to provide information about the exhibition of their respective films, such as the date, time and venue. We also propose to enhance an inspector’s ability to take enforcement actions and stop unauthorised exhibition or publication of films under the FCO, by empowering the inspector to enter and search any place without warrant if it is not reasonably practicable to obtain one in light of the risk of destruction or loss of relevant evidence or materials.

12. In addition to active monitoring, we propose to impose heavier penalties for exhibiting films that are not exempted or approved.

13. The FCO also regulates the publication of films contained in the form of videotapes and laserdiscs. We propose to extend the control to include any other physical storage media (such as USB flash drives and other portable storage media) containing the digital version of the film.

14. Section 16 of the FCO specifies that the Review Board shall consist of SCED as an ex-officio member and nine other persons appointed

by the Chief Executive. In order to allow greater flexibility to determine the size and composition of the Review Board, we propose to remove the specified number of non-official members to be appointed by the Chief Executive, as well as to empower SCED to appoint a public officer as his representative to attend and vote at the Board meetings.

THE BILL

15. The main provisions of the Bill are as follows –
- (a) Clause 3 and Part 1 of the Schedule provide for the definition of “physical storage medium for films” and set out amendments to extend the scope of certain provisions covering videotapes and laserdiscs only under the existing FCO;
 - (b) Clauses 4, 14, 15, 18 and 20 respectively amend sections 7, 15A, 15K, 20 and 22 of the FCO to increase the penalties for certain offences under the FCO;
 - (c) Clause 7 amends section 10 of the FCO to –
 - (i) require a censor to, in dealing with a film under that section, consider whether the exhibition of the film would be contrary to the interests of national security; and
 - (ii) enable a censor to impose a condition that a particular notice be added to a film for it to be approved for exhibition;
 - (d) Clause 8 adds a new section 10A to the FCO to provide for a mechanism to extend the period for making a film censorship decision where national security may be involved;
 - (e) Clause 11 amends section 13 of the FCO to provide that if a censor requires a particular notice to be added to a film, the Authority must inform the person who submitted the film under section 8 of the FCO of the censor’s decision;
 - (f) Clause 12 adds a new Division 2 of Part IV to the FCO to

empower the CS to direct the Authority to revoke any certificates of exemption or certificates of approval that are in force for films the exhibition of which would be contrary to the interests of national security;

- (g) Clause 13 adds new sections 14B, 14C and 14D to the FCO to empower the Authority to require relevant persons to provide information about the exhibition of a film;
- (h) Clause 16 amends section 16 of the FCO to empower SCED to appoint a public officer to act on his behalf at a meeting of the Review Board, and adjust the number of non-official members required to be appointed to the Review Board;
- (i) Clause 17 adds a new section 19A to the FCO to provide that the review mechanism of the Review Board under sections 17, 18 and 19 of the FCO does not apply in relation to decisions of the Authority or a censor made on the grounds of national security; and
- (j) Clause 21 amends section 23 of the FCO to adjust the requirement to obtain a warrant for an inspector's entry into, and search of, any place for enforcing the FCO.

LEGISLATIVE TIMETABLE

16. The legislative timetable will be –

Publication in the Gazette	27 August 2021
First Reading and commencement of Second Reading debate	1 September 2021
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSALS

17. The proposals are in conformity with the Basic Law, including

the provisions concerning human rights. They have no sustainability, productivity, economic, environmental, financial, civil service, family and gender implications. The Bill would not affect the current binding effect of the FCO.

PUBLICITY

18. We will issue a press release and arrange a spokesperson to answer media and public enquiries.

ENQUIRIES

19. For enquiries on this brief, please contact Mr Keith GIANG, Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries) A, at 2810 2708.

Communications and Creative Industries Branch
Commerce and Economic Development Bureau
24 August 2021

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A BILL To

Amend the Film Censorship Ordinance to adjust the film censorship mechanism to enable the prohibition of the exhibition or publication of a film that would be contrary to the interests of national security; to enable a censor to impose a condition that a specified notice be added to a film for it to be approved for exhibition; to empower the Film Censorship Authority to demand information about the exhibition of a film; to extend the scope of certain provisions covering videotapes and laserdiscs to cover other physical storage media for films; to empower the Secretary for Commerce and Economic Development to appoint a public officer to act on behalf of the Secretary at a meeting of the Board of Review; to adjust the number of non-official members required to be appointed to the Board of Review; to adjust the requirement to obtain a warrant for an inspector's entry into, and search of, any place for enforcing the Ordinance; to impose heavier penalties for certain offences; and to make related and miscellaneous amendments to the Ordinance and related legislation.

Enacted by the Legislative Council.

Part 1 Preliminary

1. Short title

This Ordinance may be cited as the Film Censorship (Amendment) Ordinance 2021.

Part 2**Amendments to Film Censorship Ordinance**

2. **Film Censorship Ordinance amended**
- (1) The Film Censorship Ordinance (Cap. 392) (*principal Ordinance*) is amended as set out in sections 3 to 22.
- (2) The provisions of the principal Ordinance set out in column 2 of Part 1 of the Schedule are amended by repealing the words and characters set out in column 3 of that Part and substituting the words and characters set out in column 4 of that Part.
3. **Section 2 amended (interpretation)**
Section 2(1)—
Add in alphabetical order
“*physical storage medium for films* (影片實物儲存媒體) means an article that contains a record of visual moving images, such as a videotape or laserdisc;”.
4. **Section 7 amended (restriction on exhibiting films unless exempted or approved)**
- (1) Section 7(1)—
Repeal
“\$200,000”
Substitute
“\$1,000,000”.
- (2) Section 7(1)—
Repeal
“1 year”

Substitute

“3 years”.

- (3) Section 7(2)(a)—

Repeal

“has been issued under section 9”

Substitute

“issued under section 9 is in force”.

- (4) Section 7(2)(b)—

Repeal

“has been issued under section 13”

Substitute

“issued under section 13 is in force”.

- 5.
- Part IV heading amended (censorship of films)**

Part IV, heading, after “FILMS”—

Add

“AND CONSEQUENTIAL MATTERS”.

- 6.
- Part IV, headings added**

Before section 8—

Add

“Division 1—General Procedure**Subdivision 1—Submission of Films to Authority and
Actions by Authority and Censors”.****7. Section 10 amended (action to be taken by Authority and censor
in relation to film which is not exempted)**

(1) Section 10(2)(a)—

Repeal

“and”.

(2) Section 10(2)(b)—

Repeal the full stop**Substitute a semicolon.**

(3) At the end of section 10(2)—

Add“(d) whether the exhibition of the film would be contrary to
the interests of national security.”.

(4) Section 10(4)(c)—

Repeal“, by reason of a specified piece or specified pieces of the film,
that the film is not suitable for exhibition because of a matter
referred to in subsection (2), or that”**Substitute**“that, unless the film is modified in the specified way, either
the film is not suitable for exhibition because of a matter
referred to in subsection (2), or”.

(5) Section 10(4)(c)(i)—

Repeal

“such specified piece or pieces were excised from the film”

Substitute

“the film were so modified”.

(6) After section 10(4)—

Add“(4A) For the purposes of subsection (4)(c), a film is modified
in the specified way if either or both of the following
modifications are made to the film—(a) the excision of a particular piece or particular pieces
of the film from the film;

(b) the addition of a particular notice to the film.”.

(7) Section 10(5)—

Repeal

“The”

Substitute

“Subject to section 10A(5), the”.

8. Section 10A added

After section 10—

Add**“10A. Extension of period for making film censorship decisions in
certain cases**(1) The Authority may in writing recommend to the Secretary
that the decision period be extended for a film submitted
and accepted under section 8 if the Authority is of the
opinion that—(a) the exhibition of the film might be contrary to the
interests of national security; and

- (b) the censor concerned could not reasonably be expected to make a decision for the film under section 10(4) within the decision period because of the time required for considering the matter referred to in section 10(2)(d).
- (2) However, no recommendation may be made in relation to the decision period for a film under subsection (1) if the period has expired.
- (3) On a recommendation under subsection (1) made in relation to the decision period for a film (*original decision period*), the Secretary may specify a period extending the original decision period (*extended decision period*) if the Secretary is also of the opinion that—
- (a) the exhibition of the film might be contrary to the interests of national security; and
- (b) the censor concerned could not reasonably be expected to make a decision for the film under section 10(4) within the original decision period because of the time required for considering the matter referred to in section 10(2)(d).
- (4) An extended decision period must not be more than 28 days after the expiry of the original decision period.
- (5) If an extended decision period is specified under subsection (3), the censor concerned is not required to make a decision for the film under section 10(4) within the original decision period, but must make such a decision before the expiry of the extended decision period.
- (6) In this section—
decision period (決定期間), in relation to a film, means the period within which the censor concerned must make a

- decision for the film under section 10(4) as allowed under this Ordinance, including such a period as allowed under this section.”.
9. **Part V heading repealed (matters consequential upon censor’s decision in respect of a film)**
Part V, heading—
Repeal the heading.
10. **Part IV, Division 1, Subdivision 2 heading added**
Before section 12—
Add
“Subdivision 2—Matters Consequential on Censor’s Decision for Film”.
11. **Section 13 amended (certificate of approval, notice of refusal to approve and notice concerning excision)**
(1) Section 13, heading—
Repeal
“excision”
Substitute
“modification”.
(2) Section 13—
Repeal subsection (3)
Substitute
“(3) If a censor deals with a film under section 10(4)(c), the Authority must as soon as reasonably practicable after the censor has done so—

- (a) give written notice of the censor’s decision under that section to the person who submitted the film under section 8;
 - (b) specify in the notice—
 - (i) if the censor’s opinion for the film under section 10(4)(c) concerns a modification specified in section 10(4A)(a)—the piece or pieces of the film required to be excised from the film; and
 - (ii) if the censor’s opinion for the film under section 10(4)(c) concerns a modification specified in section 10(4A)(b)—
 - (A) the content of the notice required to be added to the film; and
 - (B) the form in which the notice is required to be so added; and
 - (c) state in the notice the reasons for the censor’s decision.”.
- (3) Section 13(4)(a)—
Repeal
 “required excision”
Substitute
 “required modification”.
- (4) Section 13(4)(a)—
Repeal
 “such excision”
Substitute
 “the modification”.
- (5) Section 13(4)(b)—

- Repeal**
 “any such excision”
Substitute
 “the modification”.
- (6) Section 13(4)(b)(ii)—
Repeal
 “such excision”
Substitute
 “the modification”.
- (7) Section 13(4)(b)(iii)(C)—
Repeal
 “such excision”
Substitute
 “the modification”.
- (8) Section 13(4B)—
Repeal
 “regard to the matters specified in section 10(2)(a) and (b), he”
Substitute
 “taken into consideration the matters referred to in section 10(2), the Authority”.
- (9) Section 13(4B), Chinese text, after “拒絕”—
Add
 “根據本條”.
12. **Part IV, Division 2 added**
 Part IV, after Division 1—
Add

**“Division 2—Power of Chief Secretary for
Administration to Direct Authority to Revoke
Certificates of Exemption or Certificates of Approval
in Interests of National Security**

14A. Chief Secretary for Administration may give directions to revoke certificates

- (1) If the Chief Secretary for Administration is of the opinion that the exhibition of a certified film would be contrary to the interests of national security, the Chief Secretary for Administration may in writing direct the Authority to revoke the certificate of the film.
- (2) The Authority must, as soon as reasonably practicable after receiving the direction, revoke the certificate of the certified film by written notice served either personally or by registered post on the person to whom the certificate was issued.
- (3) The notice must state that a direction has been given under subsection (1) for the film.
- (4) In this section—
 - (a) a reference to a certified film is a reference to a film for which a certificate of exemption issued under section 9, or a certificate of approval issued under section 13, is in force; and
 - (b) for a certified film, a reference to a certificate is a reference to the certificate that is in force for the film as mentioned in paragraph (a).”.

13. Sections 14B, 14C and 14D added

Part VI, before section 15—

Add

“14B. Authority may require information about exhibition of films

- (1) If a person has been issued for a film—
 - (a) a certificate of exemption under section 9; or
 - (b) a certificate of approval under section 13,
 the Authority may, by written notice given to the person, require the person to provide any information about the exhibition of the film that is specified in the notice.
- (2) For the purposes of subsection (1), it is immaterial whether the exhibition of the film is an intended exhibition, a current exhibition or a past exhibition.
- (3) A notice given to a person under subsection (1)—
 - (a) must specify a period within which the person must provide the information to the Authority; and
 - (b) may specify the form and way in which the person must provide the information to the Authority.

14C. Offences in relation to notice under section 14B

- (1) A person who fails to comply with a notice given to the person under section 14B(1) commits an offence and is liable—
 - (a) on the first conviction—to a fine at level 3; and
 - (b) on a subsequent conviction—to a fine at level 5.
- (2) It is a defence for a person charged with an offence under subsection (1) to establish that, at the time the offence is alleged to have been committed—
 - (a) the person had reasonable excuse for failing to comply with the notice; or
 - (b) without limiting paragraph (a), the information required to be provided—

- (i) was not within the knowledge, in the possession or under the control of the person; and
 - (ii) could not reasonably have been ascertained or obtained by the person.
- (3) A person is taken to have established a matter that needs to be established for a defence under subsection (2) if—
- (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (4) For the purposes of subsection (2)(a), a person does not have a reasonable excuse for failing to comply with a notice given to the person under section 14B(1) only because the information required to be provided for compliance with the notice might tend to incriminate the person.
- (5) A person commits an offence if—
- (a) in purported compliance with a notice given to the person under section 14B(1), the person provides any information to the Authority that is false or misleading in a material particular; and
 - (b) the person knows that, or is reckless as to whether, the information is false or misleading in a material particular.
- (6) A person who commits an offence under subsection (5) is liable—
- (a) on the first conviction—to a fine at level 3; and
 - (b) on a subsequent conviction—to a fine at level 5.

14D. Use of incriminating evidence in proceedings

- (1) Subsection (2) applies if—
- (a) the Authority imposes a requirement on a person to provide information under section 14B(1);
 - (b) the information might tend to incriminate the person; and
 - (c) the person claims, before providing the information, that it might so tend.
- (2) The requirement and information are not admissible in evidence against the person in criminal proceedings other than those in which the person is charged with any of the following offences in respect of the information—
- (a) an offence under section 14C;
 - (b) an offence under Part V of the Crimes Ordinance (Cap. 200).
- (3) On or before imposing a requirement on a person to provide information under section 14B(1), the Authority must ensure that the person is informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the requirement and information.”.

14. Section 15A amended (approval for publication)

- (1) Section 15A(2), Chinese text—

Repeal

everything before “載有”

Substitute

“(2) 凡影片已根據第 8 條獲接納，如任何人在監督就影片發出核准證明書或豁免證明書之前，將”。

- (2) Section 15A(4)—

Repeal

“\$200,000”

Substitute

“\$1,000,000”.

- (3) Section 15A(4)—

Repeal

“12 months”

Substitute

“3 years”.

15. Section 15K amended (submission for approval of advertising material)

- (1) Section 15K(6)—

Repeal

“10(2)(a) and (b)”

Substitute

“10(2)”.

- (2) Section 15K(10)—

Repeal

“\$200,000”

Substitute

“\$1,000,000”.

- (3) Section 15K(10)—

Repeal

“1 year”

Substitute

“3 years”.

16. Section 16 amended (Board of Review)

- (1) Section 16(2)(c)—

Repeal

“9”

Substitute

“not less than 5”.

- (2) After section 16(5A)—

Add

“(5B) The Secretary may appoint a public officer (*representative*) to, on behalf of the Secretary—

- (a) attend a meeting; and
- (b) exercise the functions of a member at the meeting.

(5C) If the representative attends a meeting on behalf of the Secretary, the representative is to be treated as a member for determining the quorum for the meeting for the purposes of this Part.”.

17. Section 19A added

Part VII, after section 19—

Add

“19A. Disapplication of sections 17, 18 and 19 for decisions made on grounds of national security

- (1) Sections 17, 18 and 19 do not apply in relation to a decision if the decision is based on an opinion that the exhibition of a film would be contrary to the interests of national security.
- (2) For the purposes of subsection (1), it is immaterial—

- (a) whether the opinion mentioned in that subsection is the sole reason for the decision concerned; and
- (b) if the decision concerned is a decision of the Authority—whether the decision is made for, or in connection with, the Authority’s exercise of a function under Division 2 of Part IV.”.

18. Section 20 amended (offence in relation to exhibition or publication of films classified for exhibition or publication only to persons who have attained the age of 18 years)

- (1) Section 20(2B)—

Repeal

“\$200,000”

Substitute

“\$1,000,000”.

- (2) Section 20(2B)—

Repeal

“12 months”

Substitute

“3 years”.

19. Section 21 amended (offence in relation to contravention of conditions endorsed on a certificate)

- (1) Section 21(3C)(b), Chinese text—

Repeal

“2 個或以上拷貝的”.

- (2) Section 21(3C)(b), Chinese text, before “而管有的”—

Add

“的拷貝，數目為多於 2 份，”.

20. Section 22 amended (offence in relation to revocation, etc.)

- (1) Section 22(3)—

Repeal

“\$200,000”

Substitute

“\$1,000,000”.

- (2) Section 22(3)—

Repeal

“1 year”

Substitute

“3 years”.

- (3) Section 22(4), Chinese text, before“，但”—

Add

“，亦不得發布載有該證明書所指的影片所載上述紀錄的拷貝的影片實物儲存媒體”.

- (4) Section 22(6)—

Repeal

“\$200,000”

Substitute

“\$1,000,000”.

- (5) Section 22(6)—

Repeal

“1 year”

Substitute

“3 years”.

- (6) Section 22(7)—

Repeal

“\$200,000”

Substitute

“\$1,000,000”.

(7) Section 22(7)—

Repeal

“1 year”

Substitute

“3 years”.

21. Section 23 amended (inspection and enforcement)

(1) Section 23(3A)—

Repeal

“An”

Substitute

“Subject to subsection (3C), an”.

(2) Section 23(3A)—

Repeal

“domestic premises”

Substitute

“place”.

(3) Section 23(3B)—

Repeal

“domestic premises”

Substitute

“place”.

(4) Section 23(3B)—

Repeal

“the premises”

Substitute

“the place”.

(5) After section 23(3B)—

Add

“(3C) An inspector may under subsection (2) enter and search any place without warrant if—

- (a) the delay necessary to obtain a warrant is likely to result in the loss or destruction of evidence of an offence under this Ordinance; or
- (b) for any other reason it would not be reasonably practicable to obtain a warrant in the circumstances of the case.”.

22. Section 27 amended (risk and expense relating to submission of film)

Section 27(2)(a)—

Repeal

“excision”

Substitute

“modification”.

Part 3

Related Amendments

Division 1—Amendments to Film Censorship Regulations

23. Film Censorship Regulations amended

The provisions of the Film Censorship Regulations (Cap. 392 sub. leg. A) set out in column 2 of Part 2 of the Schedule are amended by repealing the words set out in column 3 of that Part and substituting the words set out in column 4 of that Part.

Division 2—Amendment to Control of Obscene and Indecent Articles Ordinance

24. Control of Obscene and Indecent Articles Ordinance amended

The provision of the Control of Obscene and Indecent Articles Ordinance (Cap. 390) set out in column 2 of Part 3 of the Schedule is amended by repealing the words set out in column 3 of that Part and substituting the words set out in column 4 of that Part.

Schedule

[ss. 2, 23 & 24]

Amendments Relating to References to Videotape or Laserdisc

Part 1

Amendments to Film Censorship Ordinance (Cap. 392)

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
1.	Section 2(1), definition of <i>advertising material</i> , paragraph (a)	“film (including a videotape or a laserdisc)”	“film”
2.	Section 2(1), definition of <i>advertising material</i> , paragraph (b)	“videotape or a laserdisc”	“physical storage medium for films”
3.	Section 2(1), definition of <i>film</i> , paragraph (b)	“a videotape or laserdisc”	“a physical storage medium for films”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
4.	Section 2(1), definition of <i>film</i> , paragraph (b)	“such videotape or laserdisc”	“the storage medium”
5.	Section 2(2A)	“a videotape or laserdisc”	“a physical storage medium for films”
6.	Section 2(2A)(a) and (b)	“the videotape or laserdisc”	“the storage medium”
7.	Section 9(3A)	“videotape or a laserdisc”	“physical storage medium for films”
8.	Section 13(4C)	“videotape or a laserdisc”	“physical storage medium for films”
9.	Part VIA, heading	“VIDEOTAPES AND LASERDISCS”	“PHYSICAL STORAGE MEDIA FOR FILMS”
10.	Section 15A(1)	“videotape or laserdisc”	“physical storage medium for films”
11.	Section 15A(2)	“videotape or a laserdisc”	“physical storage medium for films”
12.	Section 15A(3)	“videotape or a laserdisc”	“physical storage medium for films”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
13.	Section 15A(3)(a), Chinese text	“上述錄影帶或雷射碟”	“該儲存媒體”
14.	Section 15A(3)(b)	“such videotape or laserdisc”	“the storage medium”
15.	Section 15A(5)	“videotape or laserdisc concerned”	“relevant physical storage medium for films”
16.	Section 15AA, heading	“ videotapes or laserdiscs ”	“ physical storage media for films ”
17.	Section 15AA(1)	“publish a videotape or laserdisc”	“publish a physical storage medium for films”
18.	Section 15AA(1)(a), Chinese text	“錄影帶或雷射碟”	“影片實物儲存媒體”
19.	Section 15AA(1)(b) and (c)	“a videotape or laserdisc”	“a physical storage medium for films”
20.	Section 15AA(1)	“the videotape or laserdisc”	“the storage medium”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
21.	Section 15AA(2)(b)	“videotape or laserdisc”	“physical storage medium for films”
22.	Section 15B(1)	“a videotape or laserdisc”	“a physical storage medium for films”
23.	Section 15B(1)	“such videotape or laserdisc shall”	“the storage medium must”
24.	Section 15B(2)	“videotape or laserdisc”	“physical storage medium for films”
25.	Section 15B(2)(a) and (b), Chinese text	“該錄影帶或雷射碟”	“該儲存媒體”
26.	Section 15B(4)(a)	“videotape or laserdisc concerned”	“relevant physical storage medium for films”
27.	Section 15B(4)(a)	“without the videotape or laserdisc”	“without the storage medium”
28.	Section 15B(4)(a)	“videotape or laserdisc shall”	“storage medium must”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
29.	Section 15B(5)(a)	“videotape or laserdisc”	“physical storage medium for films”
30.	Section 15B(5)(a), Chinese text	“該錄影帶或雷射碟”	“該儲存媒體”
31.	Section 15B(5)(b)	“without a videotape or laserdisc”	“without a physical storage medium for films”
32.	Section 15B(5)(b)	“such a videotape or laserdisc”	“such a storage medium”
33.	Section 15B(6)(b)	“videotape or laserdisc”	“physical storage medium for films”
34.	Section 15B(6)	“videotape or laserdisc concerned”	“storage medium”
35.	Section 15B(6)	“without the videotape or laserdisc”	“without the storage medium”
36.	Section 15B(6)	“videotape or laserdisc shall”	“storage medium must”
37.	Section 15B(8)	“videotape or laserdisc”	“physical storage medium for films”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
38.	Section 15C	“videotape or laserdisc under”	“physical storage medium for films under”
39.	Section 15C	“such videotape or laserdisc shall”	“the storage medium must”
40.	Section 15C	“videotape or a laserdisc to”	“physical storage medium for films to”
41.	Section 15D	“videotape or a laserdisc is”	“physical storage medium for films is”
42.	Section 15D	“, on one side of the videocassette or laserdisc as the case may be, and”	“on the storage medium and,”
43.	Section 15D	“videotape or a laserdisc to”	“physical storage medium for films to”
44.	Section 15E(1) and (2)	“videotape or a laserdisc”	“physical storage medium for films”
45.	Section 15E(2), Chinese text	“該錄影帶或雷射碟”	“該儲存媒體”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
46.	Section 15F(1)	“a videotape or laserdisc”	“a physical storage medium for films”
47.	Section 15F(1)	“the videotape or laserdisc”	“the storage medium”
48.	Section 15G(1)	“videotape or laserdisc”	“physical storage medium for films”
49.	Section 15K(9)(a)	“videotape or laserdisc”	“physical storage medium for films”
50.	Section 19(1)(b)	“videotape or laserdisc”	“physical storage medium for films”
51.	Section 19(9)(b)(ii)	“a videotape or laserdisc”	“a physical storage medium for films”
52.	Section 19(9)(b)(ii)	“the videotape or laserdisc”	“the storage medium”
53.	Section 19(12)(c)	“a videotape or laserdisc”	“a physical storage medium for films”
54.	Section 19(12)(c)	“the videotape or laserdisc”	“the storage medium”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
55.	Section 20(2A)	“videotape or a laserdisc”	“physical storage medium for films”
56.	Section 21(1)	“videotape or laserdisc”	“physical storage medium for films”
57.	Section 21(3)(b)(i)	“videotape or laserdisc”	“physical storage medium for films”
58.	Section 21(3A)	“videotape or laserdisc being a videotape or laserdisc”	“physical storage medium for films being such a storage medium”
59.	Section 21(3B)(a)	“videotape or laserdisc”	“relevant physical storage medium for films”
60.	Section 21(3B)(b)	“videotape or the laserdisc concerned”	“relevant physical storage medium for films”
61.	Section 21(3C)(a) and (b)	“a videotape or laserdisc”	“a physical storage medium for films”
62.	Section 21(3C)(b)	“the videotape or laserdisc, as the case may be,”	“the storage medium”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
63.	Section 21(3C)(b), Chinese text	“該等錄影帶或雷射碟”	“該儲存媒體”
64.	Section 22(4)	“videotape or laserdisc” (wherever appearing)	“physical storage medium for films”
65.	Section 22(5A)(i)	“publish a videotape or laserdisc”	“publish a physical storage medium for films”
66.	Section 22(5A)(i)	“without a videotape or laserdisc”	“without a physical storage medium for films”
67.	Section 22(5A)(i)	“such a videotape or laserdisc”	“such a storage medium”
68.	Section 23(2)(a)	“videotape or laserdisc”	“physical storage medium for films”
69.	Section 29A(1)(a)	“the videotapes or laserdiscs”	“physical storage media for films”
70.	Section 29A(1)(c)	“videotapes or laserdiscs”	“physical storage media for films”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
71.	Section 29A(2)(a)	“videotape or laserdisc” (wherever appearing)	“physical storage medium for films”
72.	Section 29A(2)(a), Chinese text	“該錄影帶或雷射碟”	“該儲存媒體”
73.	Section 29A(2)(a), Chinese text	“錄影帶、雷射碟”	“儲存媒體”
74.	Section 29A(2)(b)	“videotape or laserdisc”	“physical storage medium for films”

Part 2

Amendments to Film Censorship Regulations (Cap. 392 sub. leg. A)

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
1.	Regulation 12(4)	“videotape or laserdisc”	“physical storage medium for films”
2.	Regulation 12(5)	“videotape, laserdisc”	“physical storage medium for films”

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
3.	Regulation 13(1)	“Any videotape, laserdisc”	“Any physical storage medium for films”
4.	Regulation 13(1)	“the videotape, laserdisc”	“the storage medium”
5.	Regulation 13(2)	“videotapes, laserdiscs”	“physical storage media for films”
6.	Regulation 14(3)	“videotape or laserdisc”	“physical storage medium for films”
7.	Schedule 3, Part IV, column 1	“videotape or laserdisc”	“physical storage medium for films”
8.	Schedule 3, Part V, column 1	“videotape, laserdisc”	“physical storage medium for films”
9.	Schedule 5, Part III, item 3, column 2	“videotape or laserdisc”	“physical storage medium for films”

Part 3

Amendment to Control of Obscene and Indecent Articles Ordinance (Cap. 390)

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
1.	Section 3(aa)	“videotape or laserdisc in respect of which there is approval under section 15A of the Film Censorship Ordinance (Cap. 392)”	“physical storage medium for films (as defined by section 2(1) of the Film Censorship Ordinance (Cap. 392)) for which there is approval under section 15A of that Ordinance”

Explanatory Memorandum

The main purpose of this Bill is to amend the Film Censorship Ordinance (Cap. 392) (*Ordinance*) to provide for the censorship of films in the interests of national security and to provide for various matters such as matters relating to the general film censorship procedure, the exhibition or publication of films, the Board of Review established under the Ordinance and the enforcement of the Ordinance. The Bill also makes related and miscellaneous amendments to related legislation.

- The Bill is divided into 3 Parts and contains a Schedule.

Part 1—Preliminary

- Clause 1 sets out the short title.

Part 2—Amendments to Ordinance

- Clause 3 amends section 2 of the Ordinance to provide for the meaning of *physical storage medium for films* in the Ordinance.
- Clauses 5, 6, 9 and 10 amend certain headings of, and add certain new headings to, the Ordinance to reorganize the Ordinance in view of the other amendments made to it by the Bill.
- Clause 7 amends section 10 of the Ordinance—
 - to require a censor to, in dealing with a film under that section, consider whether the exhibition of the film would be contrary to the interests of national security; and
 - to enable a censor to impose a condition that a specified notice be added to a film for it to be approved for exhibition.
- Clause 8 adds a new section 10A to the Ordinance to provide for a mechanism to extend the period for making a censorship decision for

- a film the exhibition of which might be contrary to the interests of national security.
8. Clause 11 amends section 13 of the Ordinance to provide that, if a censor requires a notice to be added to a film under section 10(4)(c) of the Ordinance as amended, the Film Censorship Authority (*Authority*) must give written notice of the censor's decision to the person who submitted the film under section 8 of the Ordinance.
 9. Clause 12 adds a new Division 2 of Part IV (new section 14A) to the Ordinance to empower the Chief Secretary for Administration to direct the Authority to revoke any certificates of exemption issued under section 9 of the Ordinance, or certificates of approval issued under section 13 of the Ordinance, that are in force for films the exhibition of which would be contrary to the interests of national security.
 10. Clause 13 adds new sections 14B, 14C and 14D to the Ordinance. The new section 14B empowers the Authority to require relevant persons to provide information about the exhibition of a film. The new section 14C provides for offences for a failure to provide the information or the provision of false or misleading information. The new section 14D provides for the inadmissibility of self-incriminating information provided by a person for compliance with a requirement made under section 14B as evidence against the person in proceedings.
 11. Clause 16 amends section 16 of the Ordinance—
 - (a) to empower the Secretary for Commerce and Economic Development to appoint a public officer to act on behalf of the Secretary at a meeting of the Board of Review established under that section; and
 - (b) to adjust the number of non-official members required to be appointed to the Board of Review.

12. Clause 17 adds a new section 19A to the Ordinance to provide that sections 17, 18 and 19 of the Ordinance do not apply in relation to decisions of the Authority or a censor made on the grounds of national security.
13. Clause 19 amends section 21 of the Ordinance to make minor textual amendments to the Chinese text.
14. Clause 21 amends section 23 of the Ordinance to adjust the requirement to obtain a warrant for an inspector's entry into, and search of, any place for enforcing the Ordinance.
15. Clauses 4, 14, 15, 18 and 20 respectively amend sections 7, 15A, 15K, 20 and 22 of the Ordinance to increase the penalties for certain offences under those sections.
16. Clause 22 makes a consequential amendment to section 27 of the Ordinance.
17. The Bill also amends the Ordinance to extend the scope of certain provisions of the Ordinance covering videotapes and laserdiscs to cover other physical storage media for films. The relevant amendments are set out in Part 1 of the Schedule.

Part 3—Related Amendments

18. Part 3 provides that the Film Censorship Regulations (Cap. 392 sub. leg. A) and the Control of Obscene and Indecent Articles Ordinance (Cap. 390) are consequentially amended as set out in Parts 2 and 3 of the Schedule.