

Namibia

## Publications Act, 1974

Act 42 of 1974

Legislation as at 1 August 1998

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## Publications Act, 1974

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Republic of Namibia  
Annotated Statutes

**Publications Act, 1974**  
**Act 42 of 1974**

[Published in South African Government Gazette 4426 on 9 October 1974](#)

**Assented to on 1 October 1974**

**There are multiple commencements**

Provisions	Status
Section 1; Chapter I (section 2–7); Chapter II, section 8–14, section 16–18; Chapter III, section 19–21, section 22–24, section 26–27, section 29; Chapter IV, section 30–32, section 34; Chapter V, section 35, section 36–37, section 38, section 39; Chapter VI, section 40–42, section 43–44, section 45–53	commenced on 1 April 1975 by <a href="#">Proclamation R74 of 1975</a> .
Chapter II, section 15; Chapter IV, section 33	commenced on 1 September 1975 by <a href="#">Proclamation R187 of 1975</a> .
Chapter III, section 25, section 28	commenced on 1 October 1975 by <a href="#">Proclamation 229 of 1975</a> .
Chapter V, section 37A; Chapter VI, section 42A–42B	commenced on 15 June 1977 by <a href="#">Act 79 of 1977</a> .
Chapter V, section 35B, section 38A	commenced on 1 July 1978 by <a href="#">Act 109 of 1978</a> .
Chapter V, section 35A	commenced on 2 October 1978 by <a href="#">Act 109 of 1978</a> .
Chapter III, section 21A, section 29A; Chapter VI, section 44A	commenced on 1 January 1987 by <a href="#">Act 60 of 1986</a> .

**[This is the version of this document as it was from 1 August 1998 to 14 February 2023.]**

**[Amended by [Publications Amendment Act, 1977 \(Act 79 of 1977\)](#) on 15 June 1977]**

**[Amended by [Publications Amendment Act, 1978 \(Act 109 of 1978\)](#) on 1 July 1978]**

**[Amended by [Publications Proclamation, 1978 \(Proclamation AG43 of 1978\)](#) on 3 July 1978]**

[Amended by [Publications Amendment Act, 1978 \(Act 109 of 1978\)](#) on 2 October 1978]  
 [Amended by [Publications Amendment Act, 1979 \(Act 44 of 1979\)](#) on 9 May 1979]  
 [Amended by [Divorce Act, 1979 \(Act 70 of 1979\)](#) on 1 July 1979]  
 [Amended by [Registration of Newspapers Amendment Act, 1982 \(Act 98 of 1982\)](#) on 1 May 1983]  
 [Amended by [Publications Amendment Act, 1986 \(Act 60 of 1986\)](#) on 1 January 1987]  
 [Amended by [First Law Amendment \(Abolition of Discriminatory or Restrictive Laws for purposes of Free and Fair Election\) Proclamation, 1989 \(Proclamation AG14 of 1989\)](#) on 8 June 1989]  
 [Amended by [Customs and Excise Act, 1998 \(Act 20 of 1998\)](#) on 1 August 1998]

[APPLICABILITY TO SOUTH WEST AFRICA: Section 46 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.” Section 47 defines “Republic” to include “the territory of South West Africa”.]

[TRANSFER TO SOUTH WEST AFRICA: The Act was under the authority of “the Minister to whom the administration of this Act is from time to time assigned” rather than under any particular government department (section 47). Section 3(2) of the Executive Powers (Interior) Transfer Proclamation AG 17 of 1978, specifically exempted the Act from the operation of section 3(1) of Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, meaning that the administration of the Act was not transferred to South West Africa by that transfer proclamation. Certain powers under the Act were transferred to the Administrator-General by the Publications Proclamation, AG 43 of 1978 (OG 3776). However, this Proclamation did not seem to function as a transfer proclamation. Under section 2 of AG 43 of 1978, the Administrator-General was given the power to amend, set aside or substitute any decision made by any committee referred to in the principal Act, by the Publications Appeal Board, or by the Directorate of Publications. However, these bodies were still in a position to make decisions which were applicable to South West Africa if the Administrator-General did not intervene.]

[The Publications Proclamation, AG 43 of 1978 (OG 3776), which came into force on its date of publication, 3 July 1978, does not amend the Act but it supplements it by giving the Administrator-General of South West Africa certain powers in respect of its administration. The substantive provisions of this Proclamation are as follows:

“1. Interpretation

A reference in this Proclamation to a decision which was or may be given, shall be construed as including a reference to a prohibition, exemption, permit, condition, certificate, declaration or any other thing which was or, as the case may be, may be imposed, granted, issued or done.

2. Powers of Administrator-General in relation to Act [42 of 1974](#) in South West Africa

(1) The Administrator-General may amend or set aside any decision which was given under any provision of the Publications Act, 1974 (Act [42 of 1974](#)), by a committee referred to in that Act or the Publications Appeal Board, the chairman of that appeal board or the Directorate of Publications so referred to, or substitute for such decision any other decision that may be so given.

(2) A decision given under subsection (1) by the Administrator-General, shall in the application of the said Act in the territory of South West Africa, be deemed to be a decision of a committee, the Publications Appeal Board, the chairman of that appeal board or the Directorate of Publications, as the case may be, that could have given that decision under the relevant provisions of the said Act: Provided that –

(a) in such application a reference in the said Act to the

Gazette, shall be construed as a reference to the Official Gazette

(b) there shall be no appeal to the Publications Appeal Board against such a decision.”]

## ACT

To provide for the control of certain publications or objects, films and public entertainments; to amend the Post Office Act, 1958; to repeal the Publications and Entertainments Act, 1963; to amend the Customs and Excise Act, 1964, and the Indecent and Obscene Photographic Matter Act, 1967; and to provide for incidental matters.

(Afrikaans text signed by the State President)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

## 1. Recognition of Christian view of life

In the application of this Act the constant endeavour of the population of the Republic of South Africa to uphold a Christian view of life shall be recognized.

## Chapter I Directorate Committees and Advisory Committees

## 2. Directorate of Publications

- (1) (a) There shall be a directorate to be known as the Directorate of Publications.  
(b) The directorate shall perform the functions entrusted to it under this Act.
- (2) (a) The directorate shall consist of a director, to be known as the Director of Publications, a deputy director and the number of assistant directors, but not exceeding three, determined by the Minister.  
(b) The members of the directorate shall be appointed by the Minister and shall be persons who in his opinion are by reason of their educational qualifications and knowledge fit to perform the functions entrusted to the directorate under this Act.
- (3) The period and conditions of office, remuneration and allowances of the members of the directorate shall be determined by the Minister in consultation with the Minister of Finance.

[subsection (3) amended by Act 60 of 1986]

- (4) The administrative work incidental to the performance of the functions of the directorate shall be performed by officers designated by the Secretary for the purposes of this Act: Provided that any officer who is not serving with the department shall be so designated only with the concurrence of the head of the department where such officer is serving.
- (5) The director shall preside at all meetings of the directorate at which he is present, and if he is absent from any meeting, the deputy director shall preside, and if both the director and the deputy director are absent from any meeting, the members present thereat shall elect one of their number to preside at that meeting.
- (6) Two members of the directorate shall constitute a quorum, and the decision of the majority of members present at a meeting of the directorate shall be the decision of the directorate: Provided that in the event of an equality of votes the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.

[subsection (6) substituted by Act 79 of 1977]

- (7) Meetings of the directorate shall be held at such times as the director, or in his absence the deputy director, may determine.
- (8) Any document purporting to have been signed by the director and stating that a function was performed by the directorate shall be sufficient proof of the performance of that function by the directorate.
- (9) (a) The seat of the directorate shall be determined by the Minister.  
(b) In order to be able to perform its functions efficiently the directorate may, with the approval of the Minister, establish an office at any place.

[subsection (9) substituted by Act 79 of 1977]

### 3. Functions of directorate

- (1) The directorate shall -
  - (a) perform such functions in respect of publications or objects, films, public entertainments and intended public entertainments as may be entrusted to it under this Act or any other Act;
  - (b) at the request of any committee, submit any matter relating to any function of that committee to any person who is an expert on that matter, for his advice;
  - (c) advise the Minister concerning any matter arising from the application of any provision of this Act which is referred to the directorate by the Minister.
- (2) The directorate may submit any matter relating to its functions to any person whose name appears on the list referred to in section 5(1)(b), or to any other person who is an expert on such matter, for his advice.

[subsection (2) inserted by Act 79 of 1977]

### 4. Committees

- (1) The directorate shall from time to time appoint such number of committees as it may consider necessary for the achievement of the purposes of this Act.
- (2) A committee referred to in subsection (1) shall consist of such number of members, but not fewer than three, as may be appointed by the directorate subject to the provisions of section 5.
- (3) Any person who has been designated under section 5(3) and who is appointed as a member of a committee under subsection (2), shall act as chairman of the committee concerned: Provided that if two persons who have been so designated are appointed as members of the same committee, the person who is determined by the directorate shall act as chairman of the committee concerned, while the other person shall act as chairman of that committee in the absence of the first-mentioned person.
- (4) Three members of a committee shall constitute a quorum and the decision of the majority of members present at a meeting of the committee shall be the decision of the committee: Provided that in the event of an equality of votes the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.
- (5)
  - (a) The period of office of members of a committee shall be determined on appointment.
  - (b) The conditions of office, remuneration and allowances of members of a committee shall be determined by the Minister in consultation with the Minister of Finance.

[paragraph (b) amended by Act 60 of 1986]

### 5. Persons eligible for appointment as members of committees

- (1)
  - (a) No person shall be appointed as a member of a committee unless his name appears on the list referred to in paragraph (b).
  - (b) Such list shall be compiled every three years by the Minister and shall be supplemented by him from time to time when necessary.

[Paragraph (b) is substituted by Act 79 of 1977 with effect from 1 April 1978, in terms of section 23(2) of Act 79 of 1977.]

- (2) Persons whose names are included in the list referred to in subsection (1), shall be persons who in the opinion of the Minister are by reason of their educational qualifications and knowledge fit to perform the functions entrusted to committees under this Act.



- (3) The Minister shall designate as many of the persons referred to in subsection (1) as he may deem necessary to serve, subject to the provisions of the proviso to section 4(3), as chairmen of committees when they are appointed as members thereof.

## **6. Coloured Advisory Committee**

- (1) The Executive of the Coloured Persons Representative Council of the Republic of South Africa may appoint every three years an advisory committee consisting of not more than five members to advise committees in respect of any question relating to the exhibition of films to coloured persons which is referred by the committees to that advisory committee.

**[Subsection (1) is substituted by Act 79 of 1977 with effect from 1 April 1978, in terms of section 23(2) of Act 79 of 1977.]**

- (2) The Executive referred to in subsection (1) shall appoint a member of the advisory committee referred to in that subsection, as chairman of that advisory committee.
- (3) No person other than a person who is competent to vote in an election of members of the council referred to in subsection (1), shall be appointed as a member of the advisory committee referred to in that subsection.
- (4) The remuneration and allowances of the members of the advisory committee referred to in subsection (1) shall be as prescribed.

## **7. Indian Advisory Committee**

- (1) The Executive Committee of the South African Indian Council may appoint every three years an advisory committee consisting of not more than five members to advise committees in respect of any question relating to the exhibition of films to Indians which is referred by the committees to that advisory committee.

**[Subsection (1) is substituted by Act 79 of 1977 with effect from 1 April 1978, in terms of section 23(2) of Act 79 of 1977.]**

- (2) The Executive Committee referred to in subsection (1) shall appoint a member of the advisory committee referred to in that subsection, as chairman of that advisory committee.
- (3) No person other than a person who is competent to be a member of the council referred to in subsection (1), shall be appointed as a member of the advisory committee referred to in that subsection.
- (4) The remuneration and allowances of the members of the advisory committee referred to in subsection (1) shall be as prescribed.

## **Chapter II Publications or Objects**

## **8. Production, distribution, importation or possession of certain publications or objects prohibited**

- (1) No person shall -
- (a) produce an undesirable publication or object; or
  - (b) distribute a publication or object, if that publication or object is in terms of a decision of a committee undesirable and that decision has been made known by notice in the Gazette; or

- (bA) distribute a publication or object in conflict with any condition imposed under this Act in respect of the distribution thereof, if such imposition has been made known by notice in the Gazette; or  

**[paragraph (bA) inserted by Act 109 of 1978]**
  - (c) except on the authority of a permit issued under section 12(2), distribute any edition of a publication or object, if the distribution of that edition has been prohibited under section 9(2) and that prohibition has been made known by notice in the Gazette; or
  - (d) possess any publication or object, if the possession of that publication or object has been prohibited under section 9(3) and that prohibition has been made known by notice in the Gazette; or
  - (dA) distribute any publication or object referred to in paragraph (d);  

**[paragraph (dA) inserted by Act 60 of 1986]**
  - (dB) possess any publication or object referred to in paragraph (d) with the object of distributing it;  

**[paragraph (dB) inserted by Act 60 of 1986]**
  - (e) except on the authority of a permit issued under section 12(2), import any publication or object, if the importation of that publication or object has been prohibited under section 9(4) and that prohibition has been made known by notice in the Gazette.
- (2) The provisions of this section shall not apply with reference to -
- (a) the printing of any pleading, transcript of evidence or other document for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings;
  - (b) the printing or publication -
    - (i) of any notice or report in pursuance of the directions of a court of law;
    - (ii) of any matter in any separate volume or part of any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law;
    - (iii) **[subparagraph (iii) deleted by Act 79 of 1977]**
    - (iv) **[paragraph (iv) deleted by Act 79 of 1977]**
- (3) The directorate may, after receipt of an application in the prescribed form and on such conditions as it may deem fit, exempt in writing any person, publisher or distributor of publications or objects or institution from any provision of this section, either indefinitely or for a period determined by it, and may at any time by notice in writing to the person, publisher, distributor or institution concerned withdraw any exemption granted under this subsection.  

**[subsection (3) amended by Act 60 of 1986]**
- (4) (a) No prosecution shall be instituted for a contravention of subsection (1)(a) -
- (i) unless the publication or object which forms the subject of the charge, is in terms of a decision of a committee undesirable;
  - (ii) if that decision is one against which an appeal may be noted under section 13, until the period within which such an appeal may be noted has expired or, if such an appeal has been noted against that decision, until the appeal board has decided on that appeal; and

- (iii) except on the written authority of the attorney-general having jurisdiction in the area in question.
- (b) A notice published in the Gazette stating that a publication or object is in terms of a decision of a committee undesirable, shall for the purposes of this Act be conclusive proof of the undesirability of that publication or object.

**[paragraph (b) amended by Act 44 of 1979]**

- (4A) Any publication or object which is in terms of a declaration of the board under section 8 of the repealed Act (except a declaration under paragraph (b) of subsection (1) of that section) undesirable or is in terms of a decision of the board under section 113 (3) of the Customs and Excise Act, 1964 (Act [No. 91 of 1964](#)), indecent, obscene or objectionable and which is in force at the commencement of this Act, shall for the purposes of subsection (1) (b) be deemed to be a publication or object which is in terms of a decision of a committee, made known by notice in the Gazette, undesirable.

**[Subsection (4A) is inserted by Act 79 of 1977 with effect from 1 April 1975, in terms of section 23(1) of Act 79 of 1977. The Customs and Excise Act 91 of 1964 has been replaced by the Customs and Excise Act 20 of 1998.]**

- (5) Any person who contravenes any provision of this section shall be guilty of an offence.
- (6) If in an prosecution in terms of paragraph (dB) of subsection (1) it is proved that the accused had at any particular time in his possession more than one copy of a publication or object referred to in that paragraph, it shall be presumed that the accused possessed the publication or object with the object of distributing it, unless the contrary is proved.

**[subsection (6) inserted by Act 60 of 1986]**

## **9. Powers of committees relating to publications or objects**

- (1) (a) A committee may, if -
  - (i) any edition of a publication or object which is published periodically in the Republic is in its opinion undesirable; and
  - (ii) in its opinion, every subsequent edition of that publication or object is likely to be undesirable,
 declare every edition of such publication or object to be undesirable.
- (b) After a declaration referred to in paragraph (a) has been made known by notice in the Gazette, every subsequent edition of that publication or object shall be deemed to be undesirable until that declaration is withdrawn by a committee and the withdrawal is made known by similar notice.
- (2) A committee may, if any edition of any publication or object which is published periodically in the Republic is in terms of a decision of a committee undesirable, prohibit the distribution, except under the authority of a permit issued under section 12(2), of all subsequent editions of that publication or object, and may at any time withdraw such prohibition: Provided that if a prohibition was imposed and withdrawn under this subsection no further prohibition shall be imposed in respect of the distribution of editions of the publication or object in question, unless after such withdrawal a decision has been given by a committee in terms of which an edition of the publication or object is undesirable.
- (3) A committee may prohibit the possession by any person of any publication or object which is in terms of a decision of a committee undesirable.
- (4) A committee may prohibit the importation, except on the authority of a permit issued under section 12(2), of publications or objects which -
  - (a) are published by a specific publisher; or

- (b) deal with any specific subject,

if that committee is of the opinion that such publications or objects are undesirable or are likely to be undesirable, and may at any time withdraw such prohibition.

- (4A) A committee may impose one or more conditions in respect of the distribution of any publication or object.

**[subsection (4A) inserted by Act 60 of 1986]**

- (5) The director shall without delay submit a decision imposing a prohibition referred to in subsection (3) to the appeal board, and the appeal board shall confirm or set aside that decision.
- (6) In the application of the provisions of this Act (but except the provisions of section 14) -
  - (a) any declaration made by the board under section 8(1)(e) of the repealed Act, shall be deemed to be a declaration made by a committee under subsection (1);
  - (b) any prohibition imposed by the board under section 8(1)(d) of the repealed Act, shall be deemed to be a prohibition imposed by a committee under subsection (4).

## **10. Applications for decisions by committees to be submitted to directorate**

- (1) Any person who desires to -
  - (a) obtain a decision of a committee on the question whether a publication or object is undesirable in the opinion of a committee;
  - (aA) obtain a decision of a committee on the question whether the distribution of a publication or object should in the opinion of a committee be subject to any conditions;

**[paragraph (aA) inserted by Act 60 of 1986]**

- (b) apply for a permit for the distribution of any edition of a publication or object referred to in section 8(1)(c); or
- (c) apply for a permit for the importation of a particular edition of a publication or object referred to in section 8(1)(e),

shall submit an application together with the prescribed amount (if any) to the director.

- (1A) If an application has been submitted under paragraph (a) of subsection (1) in respect of a publication or object, it shall be deemed that an application has also been submitted under paragraph (aA) of subsection (1) in respect of that publication or object, and if an application has been submitted under the said paragraph (aA) in respect of a publication or object, it shall be deemed that an application has also been submitted under the said paragraph (a) in respect of that publication or object.

**[subsection (1A) inserted by Act 60 of 1986]**

- (2) (a) An application referred to in subsection (1)(a) or (aA) shall be accompanied by the publication or object in question, and an application for a permit referred to in subsection (1)(b) or (c) shall be accompanied by a copy of the edition in question.

**[paragraph (a) amended by Act 60 of 1986]**

- (b) If it is not practicable to submit a publication or object as required by paragraph (a), the applicant shall in his application specify the place where that publication or object may be examined by a committee.

- (3) No amount shall be payable under this section by any person who submits a publication or object under subsection (1) in the performance of a function entrusted to him under this Act, the Customs and Excise Act, 1964 (Act [No. 91 of 1964](#)), or any other Act.

[The Customs and Excise Act [91 of 1964](#) has been replaced by the Customs and Excise Act [20 of 1998](#).]

## 11. Directorate to cause applications and publications or objects to be submitted to committees

- (1) (a) After receipt of an application under section 10(1) the directorate shall without delay cause to be submitted to a committee for its decision, that application together with the publication or object in question, or a copy of the edition in question (as the case may be).
- (b) The directorate may, of its own accord, cause to be submitted any other publication or object to a committee for its decision.
- (2) The committee referred to in subsection (1) shall without delay -
- (a) examine the publication or object or copy submitted to it under that subsection;
- (b) without hearing any person -
- (i) decide whether that publication or object or edition is undesirable in its opinion; and
- (ii) if the committee decides that that publication or object or edition is not undesirable, decide whether the distribution thereof should in its opinion be subject to any conditions and, if the committee decides that such distribution should be so subject, impose in respect of such distribution such condition or conditions as it may think fit; and
- [paragraph (b) amended by Act [60 of 1986](#)]
- (c) inform the director of its decision and of the reasons therefor.
- (3) The conditions which may be imposed under this Act in respect of the distribution of a publication or object or any edition thereof may inter alia -
- (a) require that the publication or object in question or an edition thereof shall not be sold, hired out, lent or otherwise be made available to persons falling within a specified age group;
- (b) determine the manner in which the publication or object or edition in question shall be or shall not be displayed or exhibited in public.

[subsection (3) inserted by Act [60 of 1986](#)]

## 12. Duties of director relating to decisions of committees

- (1) The director shall inform the person who made an application under section 10(1), of the decision of the committee given in respect of that application under section 11(2), and, if requested thereto by that person or any other person having a direct financial interest in the publication or object in question, inform such person or other person of the reasons for that decision.

[subsection (1) substituted by Act [79 of 1977](#)]

- (2) If a committee, in the case of an application for a permit for the distribution of an edition of a publication or object referred to in section 8(1)(c), or in the case of an application for a permit for the importation of any edition of a publication or object referred to in section 8(1)(e), decides that the copy of the edition in question submitted to it under section 11(1), is not undesirable, the director shall without delay issue to the person who made the application a permit for the

distribution in which are stated the conditions, if any, imposed under section 11(2)(b)(ii) in respect thereof, or for the importation (as the case may be) of the edition in question.

**[subsection (2) amended by Act 60 of 1986]**

- (3) The director shall, if a committee -
- (a) has made or withdrawn a declaration under section 9(1);
  - (b) has imposed a prohibition under section 9(2), (3) or (4);
  - (c) has withdrawn a prohibition under section 9(2) or (4);
  - (d) has given a decision under section 11(2) in terms of which a publication or object is undesirable (except a decision given in respect of an application for a permit for the distribution or importation of a particular edition of a publication or object referred to in section 8(1)(c) or (e));
  - (e) has given a decision under section 11(2) in respect of an application for a permit for the distribution or importation of a specified edition of a publication or object referred to in section 8(1)(c) or (e), in terms of which the edition in question is not undesirable,
  - (f) has given a decision under section 11(2) in terms of which conditions are imposed in respect of the distribution of a publication or object or edition thereof,

**[paragraph (f) inserted by Act 60 of 1986]**

without delay make known such declaration, withdrawal, prohibition or decision by notice in the Gazette: Provided that the director shall not thus make known a decision imposing a prohibition referred to it in section 9(3) unless the appeal board has confirmed that decision.

- (4) A notice referred to in subsection (3)(d) whereby a decision referred to in that subsection is made known, shall specify the provision of section 47(2) by virtue of which it was decided that the publication or object is undesirable.

### **13. Appeals against certain declarations, prohibitions or decisions of committees**

- (1) If a committee -
- (a) has made a declaration under section 9(1);
  - (b) has imposed a prohibition under section 9(2), (3) or (4);
  - (c) has decided under section 11(2) that a publication or object or any edition of a publication or object is undesirable; or
  - (d) has given a decision under section 11(2) in terms of which conditions were imposed in respect of the distribution of a publication or object or edition thereof,

the directorate, or any person on whose application that publication or object or a copy of that edition was submitted to the committee, or any person who has a direct financial interest in the publication or object or edition in question, may appeal to the appeal board.

**[subsection (1) amended by Act 60 of 1986]**

- (2)
- (a) An appeal under this section shall be noted by lodging with the clerk of the appeal board a notice of appeal setting out in full the grounds of appeal, and such notice shall, except in the case of an appeal by the directorate, be accompanied by the prescribed amount.
  - (b) An appeal by the directorate shall be noted within 14 days from the date on which the committee informed the director of the decision, prohibition or declaration in question, and an appeal by any person referred to in subsection (1), shall be noted within thirty days from the date on which the declaration, prohibition or decision in question was made known in the Gazette or, if the decision in question was not thus made known, within 30 days from the

date on which the person who made the application in question was informed by the director of that decision: Provided that in any case where a person has noted an appeal against a decision referred to in paragraph (d) of subsection (1), the right of the directorate to appeal against that decision shall not lapse before the expiry of a period of seven days from the day upon which the appeal of such person was noted.

**[paragraph (b) amended by Act 60 of 1986; not  
all changes indicated by amendment markings]**

- (c) If the directorate appeals under this section, the director shall without delay make known that fact by notice in the Gazette.
- (3) (a) Upon receipt of a notice of appeal under subsection (1), the chairman of the appeal board may in his discretion suspend the declaration, prohibition or decision in question until the appeal board has determined that appeal.
- (b) The director shall without delay make known a suspension under paragraph (a) by notice in the Gazette.
- (4) (a) The appeal board shall not consider an appeal of the directorate under this section before the expiry of the period within which a person referred to in subsection (1) may appeal against that declaration, prohibition or decision, unless before the expiry of that period any such person appeals under this section against that declaration, prohibition or decision, in which event the appeal of any such person and the appeal of the directorate shall be heard together.
- (b) If the appeal board has considered an appeal under this section against any declaration, prohibition or decision, it shall not hear any further appeal thereunder against that declaration, prohibition or decision.
- (5) The appeal board shall -
  - (a) consider the declaration, prohibition or decision which forms the subject of an appeal under this section;
  - (b) except in the case of an appeal noted in terms of paragraph (d) of subsection (1), decide whether the publication or object or edition in question is undesirable in its opinion, and
    - (i) if it is of the opinion that such publication or object or edition is not undesirable, set aside the declaration, prohibition or decision in question and, if it is of the opinion that the distribution of such publication or object or edition should be subject to conditions, impose in respect of such distribution such conditions as it may think fit; or
    - (ii) if it is of the opinion that the publication or object or edition is undesirable, confirm the declaration, prohibition or decision in question.
  - (c) in the case of an appeal under subsection (1)(d), delete or replace any of the conditions imposed in respect of the distribution of the publication or object or, in addition to any such conditions, impose any other condition in respect of such distribution.

**[subsection (5) amended by Act 109 of 1978 and by Act 60 of 1986]**

- (6) The director shall without delay inform the appellant of the decision of the appeal board under subsection (5) and, if such decision was given under subsection (5)(b) or (c), the director shall without delay -
  - (a) make known the decision of the appeal board by notice in the Gazette;
  - (b) withdraw by notice in the Gazette the notice published under section 12(3) in respect of the declaration, prohibition or decision in question; and



- (c) if the decision of the appeal board relates to a decision of a committee in respect of an application under section 10(1)(b) or (c) -
  - (i) issue a permit for the distribution subject to such conditions, if any, as the appeal board may have thought fit, or importation (as the case may be) of the edition in question to the person who made that application; or
  - (ii) amend any permit issued under section 12(2) by -
    - (aa) imposing conditions in respect of the distribution of such edition; or
    - (bb) deleting or replacing any condition imposed in respect of the distribution of that edition or, in addition to such conditions, imposing any other condition in respect of such distribution.

**[subsection (6) amended by Act 109 of 1978 and by Act 60 of 1986; not all changes of punctuation made by Act 60 of 1986 indicated by amendment markings]**

- (6A) **[subsection (6A) amended by Act 109 of 1978 and deleted by Act 60 of 1986]**
- (7) A decision of the appeal board under this section shall for the purposes of this Act be deemed to be a decision of a committee.

#### **14. Reconsideration by appeal board of decisions that publications or objects are not undesirable**

- (1) If a committee has decided under section 11(2) that a publication or object or any edition of a publication or object is not undesirable -
  - (a) the directorate may within a period of 14 days from the date upon which the committee informed the director of the decision, appeal to the appeal board by causing to be lodged with the clerk of the appeal board a notice of appeal setting out in full the grounds of appeal;
 

**[paragraph (a) amended by Act 60 of 1986]**
  - (b) the Minister may at any time direct the appeal board to reconsider that decision.
- (2)
  - (a) Upon receipt of a notice of appeal or direction under subsection (1), the chairman of the appeal board may in his discretion suspend the decision in question, as well as any permit issued by virtue of that decision, until the appeal board has determined that appeal.
  - (b) If the decision of a committee which forms the subject of an appeal or direction referred to in subsection (1), was made known under section 12(3) in the Gazette, and that decision, or a permit issued by virtue of that decision, is suspended under paragraph (a), the director shall by like notice make known the suspension of the decision or permit.
- (3)
  - (a) If an appeal or direction is noted or given under subsection (1), the director shall make known that fact by notice in the Gazette and shall in that notice specify a period within which persons referred to in paragraph (b) may make representations to the appeal board.
  - (b) The person on whose application the publication or object in question or a copy of the edition in question was submitted to a committee, or any person who has a direct financial interest in the publication or object or edition in question, may within the period specified in the notice referred to in paragraph (a), make written representations to the appeal board.
  - (c) The provisions of section 36(3)(a) shall apply mutatis mutandis in respect of a person who submitted representations to the appeal board under this subsection.
- (4)
  - (a) The appeal board shall reconsider a decision which forms the subject of an appeal or a direction referred to in subsection (1), and shall decide whether the publication or object or edition to which such decision relates is undesirable in its opinion.



- (b) If the appeal board decides that the publication or object or edition in question -
  - (i) is not undesirable, it shall confirm the decision in question: Provided that -
    - (aa) if it is of the opinion that the distribution of such publication or object or edition should be subject to conditions, it shall impose in respect of such distribution such conditions as it may think fit or, if conditions have already been imposed in respect of the distribution of the publication or object or edition, delete or replace any such condition or in addition to such conditions impose any other condition in respect of such distribution;
    - (bb) if a permit was issued in pursuance of the decision, it shall amend such permit, when applicable, in accordance with decision referred to in subparagraph (aa);
  - (ii) is undesirable, it shall set aside the decision in question and, if a permit was issued in pursuance of such decision, it shall withdraw such permit.

[paragraph (b) amended by Act [109 of 1978](#) and by Act [60 of 1986](#)]

- (5) The director shall without delay -
  - (a) inform the Minister (in the case of a direction under subsection (1)) and any person who made representations under subsection (3), of the decision of the appeal board under this section;
  - (b) make known a decision of the appeal board referred to in the proviso to subsection (4)(b)(i) or in subsection (4)(b)(ii) by notice in the Gazette.

[paragraph (b) amended by Act [109 of 1978](#)]

- (6) A permit amended or withdrawn by the appeal board under subsection (4), shall be deemed to have been amended or withdrawn on the date on which the amendment or withdrawal was made known by notice in the Gazette.

[subsection (6) amended by Act [109 of 1978](#)]

- (7) A decision of the appeal board referred to in the proviso to subsection (4)(b)(i) or in subsection (4)(b)(ii) shall for the purposes of this Act be deemed to be a decision of a committee.

[subsection (7) amended by Act [109 of 1978](#)]

- (8) For the purposes of paragraph (b) of subsection (1) “decision” shall include -
  - (a) any declaration made by the board under section 8 or 8A of the repealed Act (except a declaration under paragraph (b) of subsection (1) of the said section 8) that the publication or object concerned is not undesirable;
  - (b) any decision given by the board under section 113(3) of the Customs and Excise Act, 1964 (Act [No. 91 of 1964](#)), that the publication or object concerned is not indecent, obscene or objectionable.

[Subsection (8) is inserted by Act [79 of 1977](#). The Customs and Excise Act of 1964 has been replaced by the Customs and Excise Act [20 of 1998](#).]

## 15. Review after lapse of two years of decisions that publications or objects are undesirable

- (1) (a) After the lapse of a period of two years from the date upon which a decision was given that a publication or object is undesirable -
  - (i) the directorate shall on the application of any person;

- (ii) the directorate may, of its own accord,  
cause that publication or object to be submitted to a committee and shall request that committee to decide whether that publication or object is undesirable in its opinion.
- (b) The provisions of section 10 shall apply in respect of an application referred to in paragraph (a).
- (2) The committee referred to in subsection (1) shall
  - (a) examine the publication or object in question;
  - (b) without hearing any person, decide whether or not that publication or object is undesirable in its opinion;
  - (c) inform the director of its decision and of the reasons therefor.
- (3) The director shall inform any person who made an application under subsection (1) of the decision of the committee in respect of that application and, if requested thereto by such person or any other person having a direct financial interest in the publication or object in question, of the reasons for such decision.

**[subsection (3) substituted by Act 79 of 1977 and amended by Act 60 of 1986]**

- (4) (a) If a committee has decided under subsection (2) -
  - (i) that a publication or object is undesirable; or
  - (ii) has decided that a publication or object is not undesirable but, has decided that a condition or conditions should be imposed in respect of the distribution of the publication or object,the directorate or any person at whose request that publication or object was submitted to that committee or any person having a direct financial interest in the publication or object in question, may appeal to the appeal board.

**[Paragraph (a) is amended by Act 60 of 1986. The words “has decided” at the beginning of subparagraph (ii) are superfluous as they also appear in the opening phrase of paragraph (a).]**

- (b) The provisions of section 13(2)(a) shall apply in respect of an appeal under this subsection.
  - (c) The provisions of paragraphs (b) and (c) of section 13(2) shall apply in respect of an appeal by the directorate under this subsection.
  - (d) An appeal under this subsection by a person referred to in paragraph (a), shall be noted within a period of thirty days as from the date upon which such person was informed of the decision of the committee.
- (5) An appeal by the directorate under subsection (4) shall not be heard before the expiry of a period of thirty days from the date on which the committee informed the director of the decision in question, unless any person referred to in that subsection appeals against that decision before the expiry of that period, in which event the appeal of such person and the appeal of the directorate shall be heard together.
- (6) The appeal board shall -
  - (a) examine the publication or object which forms the subject of an appeal under subsection (4);
  - (b) decide whether that publication or object is undesirable in its opinion;
  - (c) if it decides that such publication or object is undesirable, dismiss the appeal;
  - (d) if it decides that the publication or object is not undesirable, set aside the decision referred to in subsection (1) which relates to that publication or object and, if it is of the opinion

that the distribution of such publication or object should be subject to conditions, impose in respect of such distribution such conditions as it may think fit.

[paragraph (d) amended by Act 109 of 1978]

- (7) The director shall without delay make known a decision of the appeal board under subsection (6) (d) by notice in the Gazette.

[subsection (7) amended by Act 109 of 1978]

- (8) (a) If a committee has decided under subsection (2) that a publication or object is not undesirable -
- (i) it shall decide whether the distribution thereof should in its opinion be subject to conditions and, if the committee decides that the distribution should be so subject, it shall impose such condition or conditions as it may think fit in respect of such distribution;
  - (ii) the director shall without delay make known the decision of the committee by notice in the Gazette.
- (b) When the decision of a committee is made known in the Gazette under paragraph (a), the decision referred to in subsection (1) which relates to the publication or object in question, shall lapse.

[subsection (8) amended by Act 60 of 1986]

- (9) (a) The provisions of section 14 shall mutatis mutandis apply in respect of a decision referred to in subsection (8)(a): Provided that if the chairman of the appeal board under the provisions of section 14(2)(a), as so applied, suspends a decision referred to in subsection (8)(a) the decision referred to in subsection (1) which was given in respect of the publication or object shall during the period of the suspension be deemed not to have lapsed.
- (b) If the appeal board decides under the provisions of section 14, as so applied, that the publication or object in question -
- (i) is not undesirable, it shall confirm the decision referred to in subsection (8): Provided that, if it is of the opinion that the distribution of such publication or object should be subject to conditions -
    - (aa) it shall impose in respect of such distribution such conditions as it may think fit; or
    - (bb) if any conditions have already been imposed in respect of the distribution of the publication or object, it may delete or replace any such condition or in addition to any such conditions, impose any other condition in respect of the distribution of the publication or object;
  - (ii) is undesirable, it shall set aside that decision.

[paragraph (b) amended by Act 109 of 1978]

- (c) The director shall without delay make known a decision of the appeal board under the proviso to paragraph (b)(i) or under paragraph (b)(ii) by notice in the Gazette.

[paragraph (c) amended by Act 109 of 1978]

[subsection (9) amended by Act 60 of 1986]

- (10) A decision of the appeal board under this section shall for the purposes of this Act be deemed to be a decision of a committee.

- (11) For the purposes of subsection (1)
- (a) “decision” includes -
- (i) any declaration made by the board under section 8 or 8A of the repealed Act (except a declaration made under paragraph (b) of the said section 8);
  - (ii) any decision given by the board under section 113(3) of the Customs and Excise Act, 1964 (Act [No. 91 of 1964](#)), in terms of which any publication or object is indecent, obscene or objectionable;
- [The Customs and Excise Act 91 of 1964 has been replaced by the Customs and Excise Act 20 of 1998.]**
- (b) “date”, in relation to a decision, means the date on which the decision was made known by notice in the Gazette.

## **16. Director to publish lists of certain publications or objects in the Gazette**

- (1) The director shall with effect from 1 January of the year immediately following the year in which this section comes into operation -
- (a) as soon as possible after the lapse of every period of one year publish in the Gazette a list of publications or objects in respect of which notices have during the period in question been published in the Gazette under section 12(3) or 14(5) and which have during the period in question not been withdrawn under this Act;
  - (b) as soon as possible after the lapse of every period of five years publish in the Gazette a consolidated list of publications or objects in respect of which notices have up to that time been published in the Gazette under section 12(3) or 14(5) and which have during the period in question not been withdrawn under this Act.
- (2) A list of publications referred to in subsection (1), shall be compiled in alphabetical order according to the titles of the publications or objects and shall specify the numbers and dates of the Gazettes in question.

## **17. Powers of entry, examination and seizure**

- (1) Any person either generally or specially authorized thereto by the Minister in writing -
- (a) may enter upon any place -
    - (i) in or upon which it is upon reasonable grounds suspected that any undesirable publication or object is printed or reproduced;
    - (ii) in or upon which any publication or object is displayed or exhibited in public or is sold or hired out or is offered or kept for sale or hire;
  - (b) may examine any publication or object suspected upon reasonable grounds of being an undesirable publication or object; and
  - (c) may take down the prescribed particulars in respect of a publication or object appearing to afford evidence of a contravention of this Act or may seize a copy of such publication or object.
- (2)
- (a) Any person who under subsection (1) takes down particulars in respect of a publication or object, or who seizes a copy of a publication or object, shall submit those particulars or copy together with a report thereon to the director.
  - (b) Any person who under subsection (1) seizes any copy of a publication or object shall deliver to the person under whose control such copy was at the time of such seizure a document stating the title of the publication or object in question and the fact that it was thus seized.

- (3) A person referred to in subsection (1) who enters upon any place referred to in paragraph (a) of that subsection, shall at the request of the person in control of that place, exhibit the authority issued to him under subsection (1).
- (4) The Minister may at any time withdraw any authority issued under this section.
- (5) Any person who hinders or obstructs any person authorized under subsection (1) in the exercise of his powers under that subsection, shall be guilty of an offence.

## 18. Duties of publishers

- (1) A publisher shall ensure that his name and business address are printed fully, and correctly in either of the official languages of the Republic in a conspicuous place upon or in every copy of every publication published by him.
- (2) The provisions of this section shall not apply in respect of -
  - (a) any publication registered as a newspaper under the Newspaper and Imprint Registration Act, 1971 (Act [No. 63 of 1971](#));
  - (b) any publisher who is a member of the Newspaper Press Union of South Africa and who does not publish any publication other than a newspaper.
- (3) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

## Chapter III Films

## 19. Prohibition of exhibition or publication of films which have not been approved

- (1) No person shall -
  - (a) exhibit to any person any film intended to be exhibited in public;
  - (b) exhibit any film in public;
  - (c) publish any film,unless such film has been approved by a committee.
- (2) The provisions of subsection (1)(a) shall not be construed so as to prohibit the exhibition of any film -
  - (i) to any person in the course of his business as a distributor or an exhibitor of films, or to the representative of such distributor or exhibitor acting for the purposes of such business;
  - (ii) to any person concerned in the making of that film.

**[The paragraphs in this subsection are labelled with Roman numerals rather than letters, unlike most of the others in the Act.]**

- (3) The directorate may in its discretion and on such conditions as it may deem fit to impose, either by permit in the prescribed form or by notice in the Gazette exempt from the provisions of subsection (1) any particular film or any particular class of films or any film intended for exhibition to a particular category of persons or under any particular circumstances, and may in its discretion at any time withdraw any exemption granted under this subsection: Provided that if such exemption was granted by notice in the Gazette, the director shall by like notice make known the withdrawal of that exemption.
- (4) Any film approved or rejected by the board under the repealed Act and any condition imposed in respect of a film by the board under the repealed Act, shall, for the purposes of this Act, but subject

to the provisions of sections 24 and 25, be deemed to have been approved, rejected or imposed by a committee under this Act.

[subsection (4) substituted by Act 79 of 1977]

- (5) Any exemption granted by the board under section 9(2) of the repealed Act shall be deemed to have been granted by the directorate under subsection (3).
- (6) Any person who contravenes any provision of subsection (1) shall be guilty of an offence.

## 20. Applications for approval of films

- (1) Any person who applies for approval of any film under this Act, shall submit an application for approval in the prescribed form together with the prescribed amount to the director in the prescribed manner.
- (2) A film to which an application under subsection (1) relates, shall be submitted to the director together with that application, unless that film is one which was sent to the director under section 28(1) or (2), in which event that fact shall be stated in the application.
- (3) The directorate shall cause an application referred to in subsection (1) to be submitted to a committee.

## 21. Examination of and decision on films by committees

- (1) If an application for the approval of a film is submitted to a committee under section 20, that committee shall examine the film to which the application relates.
- (2) Any person who applies for the approval of any film, shall at his own expense make arrangements to exhibit that film to the committee referred to in subsection (1), or if requested by the director, to a member or members of the directorate, on such premises, on such day and at such time as the director may after consultation with such person determine.

[subsection (2) amended by Act 60 of 1986]

- (3) A committee referred to in subsection (1) may approve or reject the film in question unconditionally, or may approve that film on condition that such film -
  - (a) shall not be exhibited to -
    - (i) children in the age group of two to ten years, unless they are accompanied by persons who are eighteen years of age or older;

[subparagraph (i) substituted by Act 79 of 1977]

- (ii) children in the age group of two to eighteen years;

[subparagraph (ii) substituted by Act 79 of 1977]

- (iii) persons in any other age group specified by the committee;
    - (iv) persons in any other category specified by the committee;
  - (b) shall be exhibited only after a specified portion or portions have been excised; or
  - (c) shall be exhibited at specified places only.
- (4) The conditions which may be imposed under paragraphs (a) and (b) of subsection (3) in respect of a particular film may vary according to the place, date or time where or when the film is to be exhibited.

[subsection (4) substituted by Act 60 of 1986]

- (5) (a) A committee which examined a film under this section, shall send its decision together with the reasons therefor to the director.

- (b) The director shall inform the person who applied for the approval of such film under section 20, of the decision of the committee and, if he is requested to do so, of the reasons for that decision.
  - (c) If the committee has approved such film, the director shall issue to the person who under section 20 applied for the approval of that film a certificate of approval.
  - (d) If the committee has approved a film subject to the imposition of conditions, such conditions shall be stated in the certificate of approval.
- (6) If a committee rejects a film the director shall without delay make known that fact by notice in the Gazette.

[subsection (6) inserted by Act 60 of 1986]

## 21A. Prohibition of possession of certain films

- (1) A committee may prohibit the possession by any person of a film which has in terms of section 21 been rejected by a committee.
- (2) The director shall without delay submit to the appeal board a decision of a committee prohibiting the possession of a film, and the appeal board shall confirm or set aside that decision.
- (3) The director shall, when a prohibition referred to in subsection (1) has been confirmed by the appeal board, without delay make known such prohibition by notice in the Gazette.

[section 21A inserted by Act 60 of 1986]

## 22. Certificate of approval

The approval of a film under this Act shall be made known by means of a certificate furnished by the director in the form and manner prescribed.

## 23. Appeal to appeal board against rejection or conditions of approval of films

- (1) If a committee rejects a film, or imposes a prohibition under section 21A, or approves a film subject to the imposition of conditions, the directorate or the person who applied for the approval of that film under section 20, may appeal to the appeal board against the rejection, prohibition or the imposition of any condition.

[subsection (1) amended by Act 60 of 1986]

- (2) An appeal by the directorate shall be noted within a period of 14 days from the date on which the committee informed the director of the decision in question, and an appeal by any person referred to in subsection (1) shall be noted within a period of 30 days from the date on which the director informed such person of the decision of the committee.

[subsection (2) amended by Act 60 of 1986; not all changes indicated by amendment markings]

- (3) An appeal under this section shall be noted by lodging with or causing to be lodged with the clerk of the appeal board a notice of appeal stating in full the grounds of appeal, and such notice shall, except in the case of an appeal by the directorate, be accompanied by the prescribed amount.
- (4) The appeal board shall not consider an appeal by the directorate against the rejection of a film or the imposition of a condition, before the expiry of a period of thirty days from the date upon which the director informed the person referred to in subsection (1) of the decision of the committee, unless that person appeals against the rejection of that film or any condition imposed in respect of the approval thereof, in which case the appeals of the directorate and such other person shall be heard together.

- (4A) If an appeal is noted under subsection (1) the person who applied for the approval of that film under section 20, shall at his own expense exhibit that film to the appeal board, on such premises, on such day and at such time as the chairman of the appeal board may determine after consultation with such person.

[subsection (4A) inserted by Act 60 of 1986]

- (5) The appeal board may confirm the decision of a committee which forms the subject of an appeal under this section, or may -
- (a) in the case of an appeal against the rejection of a film, set aside the decision of the committee and approve the film, either unconditionally or subject to the imposition of any of the conditions referred to in section 21(3);
  - (b) in the case of an appeal against the imposition of any condition -
    - (i) delete that condition and impose in the place thereof any of the conditions referred to in section 21(3);
    - (ii) impose in addition to that condition any of such conditions; or
    - (iii) delete that condition.

[The full stop at the end of subparagraph (iii) should be a semicolon now that paragraph (p) is no longer the last paragraph in subsection (5).]

- (c) in the case of an appeal against the imposition of a prohibition, set aside the prohibition in question.

[paragraph (c) inserted by Act 60 of 1986]

[subsection (5) substituted by Act 79 of 1977]

- (6) The director shall without delay inform a person who appealed under subsection (1) and, in the case of an appeal by the directorate, the person who under section 20(1) applied for the approval of the film in question, of the decision of the appeal board.
- (7) If the appeal board under subsection (5) deletes or imposes any condition, the director shall replace the certificate of approval issued in respect of such film by a certificate of approval which is in accordance with the decision of the appeal board.

[subsection (7) substituted by Act 79 of 1977]

- (8) A decision of the appeal board under this section, shall for the purposes of this Act be deemed to be a decision of the committee concerned.

## 24. Reconsideration of decisions of committees in terms of which films have been approved

- (1) If a committee approves a film -
  - (a) the directorate may, within a period of 14 days from the date upon which the director was informed of the decision in question, appeal to the appeal board against that decision, by causing to be lodged with the clerk of the appeal board a notice of appeal stating in full the grounds of appeal;

[paragraph (c) amended by Act 60 of 1986]

- (b) the Minister may at any time direct the appeal board to reconsider the decision in question.
- (2) (a) If an appeal or direction is noted or given under subsection (1), the director shall by notice in writing inform the person who submitted the film in question under section 20(1) of that fact, shall make known that fact by notice in the Gazette and shall specify in that notice a



- period within which persons referred to in paragraph (b) may make representations to the appeal board.
- (b) The person who submitted the film in question under subsection 20(1), or any person who has a direct financial interest in that film, may within the period referred to in paragraph (a) submit written representations to the appeal board.
  - (c) The provisions of section 36(3)(a) shall apply mutatis mutandis in respect of a person who submitted representations to the appeal board under this subsection.
- (3)
    - (a) The appeal board shall reconsider the decision of the committee in respect of the film in question and shall confirm, vary or set aside that decision.
    - (b) The director shall inform the Minister (in the case of a direction under subsection (1)), and any person who made representations under subsection (2), of the decision of the appeal board under paragraph (a), and of the reasons for that decision.
  - (4) If the appeal board sets aside the committee's approval of the film in question, or varies or replaces any of the conditions subject to which the film was approved, the director shall without delay make known the decision of the appeal board by notice in the Gazette.
  - (5) When a notice referred to in subsection (4) is published in the Gazette, the certificate of approval issued in respect of the film in question, as well as any copy of such certificate issued under this Act, shall lapse.
  - (6) If the appeal board varies or replaces any of the conditions subject to which a film was approved, the director shall, on the application of -
    - (a) the person to whom the certificate of approval referred to in subsection (5) was issued, issue to that person a certificate of approval specifying such conditions as varied or replaced by the appeal board under subsection (4);
    - (b) any person to whom a copy of the certificate of approval referred to in subsection (5) was issued, issue to that person a copy of the certificate issued under paragraph (a).
  - (7)
    - (a) If an appeal or direction was noted or given under subsection (1), the director may in writing request any person who has in his possession the film which is the subject of that appeal or direction, to submit that film to the director within the period specified in such request.
    - (b) The director shall on completion of the appeal board's functions under this section cause such film to be returned to the person referred to in paragraph (a).
  - (8) A decision of the appeal board under this section shall for the purposes of this Act be deemed to be a decision of the committee concerned.
  - (9) Any person who fails to comply with a request under subsection (7), shall be guilty of an offence.
  - (10) For the purposes of subsection (1)(b) "decision" shall include -
    - (a) any decision given by the board under section 9 or 9A of the repealed Act;
    - (b) a decision given under section 11(2) of the repealed Act.

[subsection (10) inserted by Act 79 of 1977]

## 25. Review of certain decisions on films after lapse of two years

- (1) After the lapse of a period of two years from the date on which a decision was given under this Act in terms of which any film was rejected or was conditionally approved, any person may -
  - (a) in the case of a film which was rejected, apply for the approval of that film under this Act;
  - (b) in the case of a film which was approved subject to the imposition of conditions, apply for a variation or deletion of any condition or conditions.

- (2) (a) The provisions of sections 20 and 21 shall apply in respect of an application referred to in subsection (1)(a) and in respect of the film to which such application relates.
- (b) The provisions of sections 23 and 24 shall mutatis mutandis apply in respect of the decision of the committee relating to an application referred to in paragraph (a).
- (3) If the committee considering an application referred to in subsection (1)(a) approves the film in question, and that film is one in respect of which a notice was published in the Gazette under section 24, the director shall by like notice make known the decision of the committee under this section.
- (4) An application referred to in subsection (1)(b), shall be submitted to the director together with the prescribed amount and the film in question.

**[subsection (4) substituted by Act 79 of 1977]**

- (5) (a) The director shall submit an application referred to in section (1)(b) to a committee, and that committee shall consider that application and refuse the application or shall -
  - (i) delete the condition or conditions to which the application relates; or
  - (ii) in addition to or in the place of such condition or conditions, impose any of the conditions referred to in section 21(3).
- (b) If a committee has imposed or deleted any condition under paragraph (a) the director shall issue to the person who made that application a certificate of approval which shall be in accordance with the decision of the committee.

**[subsection (5) substituted by Act 79 of 1977]**

- (6) The director shall inform the person who made an application under this section of the decision of the committee and, if requested thereto by such person, of the reasons for that decision.

**[subsection (6) substituted by Act 79 of 1977]**

- (7) A decision of a committee under this section shall take the place of the decision which was the subject of an application under this section.
- (8) The provisions of sections 23 and 24 shall mutatis mutandis apply in respect of a decision given under subsection (5)(a): Provided that for the purposes of the application of such provisions it shall be deemed that a committee -
  - (a) has under that subsection conditionally approved a film if that committee has in pursuance of an application under this section deleted one or more of the conditions subject to which the film in question was previously approved, but not all such conditions;
  - (b) has under that subsection unconditionally approved a film if that committee has in pursuance of an application under this section deleted all the conditions subject to which the film in question was previously approved.
- (9) For the purposes of subsection (1)
  - (a) "decision" means -
    - (i) any decision given by a committee;
    - (ii) any decision given by the board under section 9 or 9A of the repealed Act;
    - (iii) any decision given under section 11(2) of the repealed Act;
  - (b) "date", in relation to a decision -
    - (i) in the case of a decision given under section 24(4), means the date on which that decision was made known by notice in the Gazette; and

- (ii) in the case of any other decision, means the date on which the applicant concerned, or the person who made the representations in question, was informed of that decision.

## 26. Prohibited films

- (1) A committee shall not approve a film which is in its opinion undesirable.
- (2) The appeal board shall not approve a film which is in its opinion undesirable.

## 27. Performance of certain acts in relation to films prohibited

- (1) No person shall -
  - (a) if a film has been approved under this Act subject to a condition that any portion or portions thereof shall be excised -
    - (i) exhibit or publish any advertisement of that film if that advertisement contains a reference to the portion or portions excised or to be excised, notwithstanding that the exhibition or publication of such advertisement has been previously approved;
    - (ii) exhibit or publish that film after the excision of the said portion or portions unless that film has thereafter been resubmitted to the committee concerned for approval: Provided that a committee which approves a film may in its discretion authorize the publication or exhibition of that film after excision of the portion or portions in question without further examination;
  - (b) without the authorization of the directorate exhibit or publish any film which, after being approved under this Act, has been altered or modified;
  - (c) exhibit any film in conflict with any condition which has been imposed under this Act in respect of the exhibition thereof;
  - (d) exhibit or publish any film which has been approved under this Act, without making known in the prescribed manner the approval of that film under this Act;

[paragraph (d) amended by Act 60 of 1986]

- (e) if any film has been approved under this Act subject to a condition that such film shall not be exhibited to persons in a specified age group or other category, make that film available to any person in the age group or category in question for exhibition;
- (f) except under the authority of a permit issued by the directorate, import any film which has been rejected under this Act, or any copy of such film;
- (g) possess a film if the possession of that film has in terms of section 21A been prohibited and that prohibition has been made known by notice in the Gazette;

[paragraph (g) inserted by Act 60 of 1986]

- (h) publish a film referred to in paragraph (g);

[paragraph (h) inserted by Act 60 of 1986]

- (i) possess a film referred to in paragraph (g) with the object of publishing it.

[paragraph (i) inserted by Act 60 of 1986]

- (2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence.
- (3) It shall be a sufficient defence to any charge that any film which was approved under this Act subject to a condition that such film shall not be exhibited to persons falling within a specified age group, was exhibited to or was made available to any person within that age group for exhibition, if

it is proved that the accused believed upon reasonable grounds that such person did not at the time of the commission of the act charged fall within such age group.

- (4) If in any prosecution in terms of paragraph (i) of subsection (1) it is proved that the accused had at any particular time in his possession more than one copy of a film referred to in that paragraph, it shall be presumed that the accused possessed the film with the object of publishing it, unless the contrary is proved.

[subsection (4) inserted by Act 60 of 1986]

- (5) The directorate may, after receipt of an application in the prescribed form and on such conditions as it may deem fit, exempt in writing any person or distributor from subsection (1)(g), either indefinitely or for a period determined by it, and may at any time by notice in writing to the person or distributor concerned withdraw any exemption granted under this subsection.

[subsection (5) inserted by Act 60 of 1986]

## 28. Certain films to be sent to director

- (1) The Secretary for Customs and Excise shall not deliver any film intended for exhibition in public or any copy of such film and which is imported, to the importer, but shall transmit it to the director at such address or addresses as the director may determine.
- (2) Any person who takes any film which is intended for exhibition in public shall on completion thereof send such film together with all copies thereof to the director at such address or addresses as the director may determine.
- (3) A person designated by the director -
- (a) shall take into and retain in his custody any film referred to in subsection (1) or (2);
  - (b) shall supervise when such film is exhibited to the committee examining that film under section 21(2);
  - (c) shall, if such film is approved by a committee subject to a condition that such film shall be exhibited only after a specified portion or portions have been excised, remove the portion or portions in question from that film, or shall supervise when the portion or portions in question are removed by the employees of the importer or maker concerned;
  - (d) shall dispose of any portion or portions removed from a film under paragraph (c), in the manner determined by the director;
  - (e) shall, after the provisions of paragraph (c) have been complied with in respect of any film, deliver such film to the importer or maker in question.
- (4) If a film was delivered to the director under the provisions of subsection (1), the director shall permit the importer of such film to view such film under the supervision of any person designated by the director.
- (5) The directorate, may after receipt of an application in the prescribed form, in its discretion and on such conditions as it may deem fit, exempt from the provisions of this section any person conducting the business of exhibitor, distributor or maker of films, either generally or in respect of a certain class of films, and may at any time withdraw such exemption.
- (6) If an application for the approval of a film is submitted to the directorate under section 20(2), and the film in question is one which has been submitted to the director under subsection (1) or (2), the director shall submit that film together with the application in question to a committee.
- (7) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence.

**29. Registration of persons conducting business of maker, distributor or exhibitor of films**

- (1) No person shall conduct the business of maker, distributor or exhibitor of films unless such person has been registered under this section.
- (2) Any person who applies for registration under subsection (1), shall submit an application in the prescribed form which contains the prescribed particulars together with the prescribed amount (if any) to the director.
- (3) The director shall, subject to the provisions of section 43(4) -
  - (a) grant such an application either unconditionally or subject to any conditions that he may deem fit; and
  - (b) issue to the applicant a registration certificate in the prescribed form: Provided that any conditions imposed under subsection (3)(a) shall be stated in the registration certificate.
- (4) The director shall forthwith withdraw the registration of a person registered under this section if a declaration is made in respect of such person under section 43(4).
- (5)
  - (a) Whenever a change occurs with regard to any of the particulars furnished by a person registered under this section in the application for registration referred to in subsection (2), the person concerned shall within fourteen days after the day on which the change occurred notify the director in writing of that change.
  - (b) Upon receipt of a notification under paragraph (a) the director shall suitably alter the particulars maintained by him in respect of the person concerned and issue an amended certificate.
- (6) Any person registered under this section shall cause to be effected fully, correctly and in a conspicuous place upon the holder or holders containing any film or any copy of a film published by him -
  - (a) his name and business address;
  - (b) the name of that film;
  - (c) the number of the certificate of approval;
  - (d) the age restriction, if any, imposed in respect of the film; and
  - (e) the running time of that film, in one of the official languages of the Republic.
- (7) The director shall at the request of any person investigating an offence under this Act furnish such person with a certified copy of a registration certificate issued under subsection (3) or an amended certificate issued under subsection (5).
- (8) Any person who contravenes any provision of this section, makes a false statement or gives false particulars for the purposes of this section, or who conducts the business in respect of which he has been registered under this section in conflict with the conditions imposed under subsection (3) (a), shall be guilty of an offence.

[Section 29 is amended by Act 79 of 1977 and substituted by Act 60 of 1986. Section 29(3) of Act 60 of 1986 provides the following transitional provision: "Any person who at the commencement of section 18 of the Publications Amendment Act, 1986 [Act 60 of 1986], is registered as a maker or distributor under section 29 shall as from that commencement for all purposes be deemed to be registered under section 29 of the principal Act [Act 42 of 1974]."]

**29A. Director shall compile and keep up to date list of certain films**

- (1) The director shall with effect from 1 January of the year immediately following the year in which this section commences -
  - (a) compile a list of all films rejected in terms of this Act or the repealed Act or the Entertainments (Censorship) Act, 1931 (Act [No. 28 of 1931](#)), and which have not as at that date been approved in terms of this Act;

**[The Entertainments (Censorship) Act 28 of 1931 does not appear to have been applicable to South West Africa. It was repealed by the Publications and Entertainments Act 26 of 1963, which is repealed by this Act.]**
  - (b) supplement such list weekly with the titles of films rejected in the preceding week.
- (2) The list referred to in subsection (1) shall opposite the titles of films the possession of which has been prohibited under section 21A, indicate that the possession of the films has been prohibited, if such prohibition has been confirmed by the appeal board.
- (3) The director shall, on receipt of an application in the prescribed form, accompanied by the prescribed amount, furnish the applicant with a copy of a list referred to in subsection (1).
- (4) The list referred to in subsection (1) shall be kept in the offices of the directorate and may be inspected by any member of the public free of charge.

**[section 29A inserted by Act [60 of 1986](#)]**

## Chapter IV

### Public Entertainments

**30. Committee may prohibit giving of certain public entertainments or may impose conditions**

- (1)
  - (a) The directorate may at any time bring any public entertainment or intended public entertainment to the notice of a committee.
  - (b) The director shall, when directed by the Minister to do so, bring any public entertainment or intended public entertainment to the notice of a committee.
- (2) A committee shall in relation to any public entertainment or intended public entertainment brought to its notice under subsection (1), make such enquiries as it may deem necessary, and shall decide -
  - (i) whether the giving of that entertainment or any part thereof is or will be undesirable in its opinion;
  - (ii) whether in its opinion any of the conditions referred to in subsection (5) should be imposed.

**[The paragraphs in this subsection are labelled with Roman numerals rather than letters, unlike most of the others in the Act.]**
- (3) If a committee decides under subsection (1) that the giving of the public entertainment or intended public entertainment in question is not or will not be undesirable, or that no conditions should be imposed in respect of the giving of that entertainment, it shall inform the director accordingly.
- (4)
  - (a) If a committee decides under subsection (2) -
    - (i) that the giving of any public entertainment or intended public entertainment or any part thereof is or will be undesirable; or

- (ii) that the conditions referred to in subsection (5) or one or more thereof should be imposed,  
 that committee shall, in accordance with its decision, prohibit the giving of that entertainment or the part thereof in question or shall impose such condition or conditions in respect of the giving thereof, and shall inform the director of its decision and the reasons for that decision.
- (b) The director shall by notice in writing or by telegraph addressed to the person who is, or is believed by the director to be, in charge of the entertainment referred to in paragraph (a), inform such person of a prohibition or condition imposed under that paragraph and, if requested by that person to do so, of the reasons for that prohibition or condition also.
- (5) The conditions which may be imposed under subsection (2), may require that persons in a specified category shall not be permitted to attend the entertainment in question or that such entertainment shall not be given at a specified place or places.

### **31. Appeal against prohibition of giving of public entertainment or condition imposed in respect of giving thereof**

- (1) If a committee has under section 30(4) prohibited the giving of any public entertainment or intended public entertainment or any specified part thereof, or has imposed any condition or conditions in respect of the giving thereof, the directorate or person who is in charge of that entertainment or any person who has a direct financial interest in that entertainment, may appeal to the appeal board against the imposition of that prohibition or any condition.
- (2) An appeal by the directorate under subsection (1) shall be noted within a period of 14 days from the date on which the committee has informed the director of the decision in question, and an appeal by a person referred to in subsection (1) shall be noted within a period of 30 days from the date on which the director informed such person of the decision in question.

[subsection (2) amended by Act 60 of 1986; not all changes indicated by amendment markings]

- (3) An appeal under this section shall be noted by lodging or causing to be lodged with the clerk of the appeal board a notice of appeal stating in full the grounds of appeal, and such notice shall, except in the case of an appeal by the directorate, be accompanied by the prescribed amount.
- (4) (a) Upon receipt of a notice of appeal under subsection (3) the chairman of the appeal board may suspend the decision which is the subject of the appeal in question until the appeal board has determined that appeal.  
 (b) The director shall without delay notify the person who is in charge of the entertainment in question in writing of any suspension under paragraph (a).
- (5) An appeal by the directorate under subsection (1) shall not be heard by the appeal board before the expiration of a period of thirty days from the date on which the director informed the person who is in charge of the entertainment in question of the decision concerned, unless that person appeals against that decision before the expiration of that period, in which case the appeal of the directorate and the appeal of that person shall be heard together.
- (6) The appeal board shall consider the decision which is the subject of any appeal or appeals under this section and may confirm that decision or may -  
 (a) in the case of an appeal against a decision in terms of which the giving of the entertainment in question, or an specified part thereof, was prohibited, if it is of the opinion that -  
 (i) the giving of such entertainment or part thereof is not or will not be undesirable;



- (ii) the conditions referred to in section 30 (5), or one or more thereof, should be imposed in respect of the giving of such entertainment or part thereof,

in accordance with its decision set aside such decision or impose the condition or conditions in question in respect of the giving of such entertainment;

- (b) In the case of an appeal against a decision in terms of which any condition was imposed -
  - (i) delete that condition and impose in the place thereof any of the conditions referred to in section 30(5);
  - (ii) impose in addition to that condition any of the said conditions; or
  - (iii) delete that condition.

**[subsection (6) amended by Act 109 of 1978]**

- (7) The director shall inform the person who noted an appeal under this section, in writing of the decision of the appeal board.
- (8) A decision of the appeal board under this section shall for the purposes of this Act be deemed to be a decision of a committee.

### **32. Reconsideration of decision of committee that public entertainment is or will not be undesirable**

- (1) If a committee has under section 30(2) decided that the giving of any public entertainment or intended public entertainment is not or will not be undesirable -
  - (a) the directorate may within a period of 14 days from the date upon which the director was informed of that decision, appeal to the appeal board by causing to be lodged with the Clerk of the appeal board a notice of appeal stating in full the grounds of appeal;

**[paragraph (a) amended by Act 60 of 1986]**

- (b) the Minister may at any time direct the appeal board to reconsider that decision.
- (2)
  - (a) If an appeal or a direction is noted or given under subsection (1), the director shall request the person who is in charge of that entertainment, or any person who has a direct financial interest in that entertainment, to submit to the appeal board in writing any representations he may wish to make, within a period determined by the director.
  - (b) The provisions of section 36(3)(a) shall mutatis mutandis apply in respect of a person who submitted representations to the appeal board under this subsection.
- (3)
  - (a) If the appeal board after consideration of the decision of the committee is of the opinion that the giving of the entertainment in question or any part thereof is or will be undesirable, or that the conditions referred to in section 30(5), or one or more thereof, should be imposed, the appeal board shall set aside the decision in question and shall in accordance with its decision prohibit the giving of the entertainment in question, or the part thereof, or shall impose the condition or conditions in question in respect of the giving of that entertainment.
  - (b) The director shall by notice in writing or by telegraph addressed to the person who is, or is believed by the director to be, in charge of any entertainment referred to in paragraph (a), inform such person of a prohibition or condition imposed under that paragraph.
- (4) A decision of the appeal board under this section shall for the purposes of this Act be deemed to be a decision of a committee.



- (5) For the purposes of subsection (1)(b) “decision” shall include any decision of the board under section 12 or 12A of the repealed Act.

[subsection (5) inserted by Act 79 of 1977]

### 33. Review of certain decisions on certain public entertainments after lapse of two years

- (1) (a) Any person may after the lapse of a period of two years from the date on which a decision was given by virtue of which -
- (i) the giving of any public entertainment or intended public entertainment or any part of such entertainment was prohibited;
  - (ii) any condition was imposed in respect of the giving of such entertainment, in the prescribed manner and on payment of the prescribed amount submit to the director an application for the withdrawal of that prohibition or condition.
- (b) The directorate shall cause an application referred to in paragraph (a) to be submitted to a committee.
- (2) The committee referred to in subsection (1) shall in the case of an application for the withdrawal of a prohibition decide -
- (a) whether the giving of the entertainment or the part thereof in question will be undesirable; and
  - (b) whether any of the conditions referred to in section 30(5) should be imposed in respect of the giving of the public entertainment in question or the part thereof in question.
- (3) The committee referred to in subsection (1) shall in accordance with its decision under subsection (2) -
- (a) refuse the application; or
  - (b) withdraw the prohibition in question; or
  - (c) withdraw the prohibition in question and impose in respect of the giving of the public entertainment, or the part thereof in question, any of the conditions referred to in section 30(5).
- (4) The committee referred to in subsection (1) shall in the case of an application referred to in paragraph (a)(ii) of that subsection, decide whether the giving of the entertainment in question without compliance with the condition in question will be undesirable.
- (5) The committee referred to in subsection (1) shall in accordance with its decision under subsection (4) -
- (a) refuse the application in question; or
  - (b) delete the condition in question.
- (6) The director shall in writing inform any person who made an application under subsection (1) of the decision of the committee, and, if requested by that person to do so, of the reasons for that decision.

[subsection (6) substituted by Act 79 of 1977]

- (7) (a) The provisions of section 31 (except those of subsection (4) of that section) shall mutatis mutandis apply in respect of a decision referred to in paragraph (a) or (c) of subsection (3) of this section, or in paragraph (a) of subsection (5) of this section.

- (b) If the appeal board decides under the provisions of section 31, as so applied, that the giving of the public entertainment in question, or the giving of the public entertainment in question without compliance with the condition in question (as the case may be) -
  - (i) will be undesirable, it shall refuse the appeal in question;
  - (ii) will not be undesirable, it shall set aside the decision referred to in subsection (1) of this section which was given in respect of the entertainment in question.
- (8) (a) The provisions of section 32 shall mutatis mutandis apply in respect of a decision under paragraph (b) of subsection (3) of this section.
- (b) Upon receipt of an appeal or direction under section 32(1), as so applied, the chairman of the appeal board may suspend the decision referred to in paragraph (b) of subsection (3) of this section.
- (c) The director shall without delay in writing inform the person who is in charge of the entertainment in question of a suspension under paragraph (b).
- (d) If the appeal board under the provisions of section 32, as so applied -
  - (i) decides that the giving of the entertainment in question is not or will not be undesirable, it shall confirm the decision referred to in paragraph (b) of subsection (3) of this section;
  - (ii) decides that the giving of the public entertainment in question or any part thereof is or will be undesirable or that the conditions referred to in section 30(5) or any one or more thereof should be imposed in respect of the giving of the entertainment in question, it shall, in accordance with its decision, prohibit the entertainment or part thereof in question or shall impose such condition or conditions in respect of the giving thereof.
- (9) For the purposes of subsection (1)
  - (i) "decision" means -
    - (a) a decision given by a committee;
    - (b) a decision given by the board under section 12 or 12A of the repealed Act;
  - (ii) "date", in relation to a decision -
    - (a) in the case of a decision under section 30(4) or 32(3) of this Act, or under section 12(1) of the repealed Act, means the date on which the decision in question was delivered or sent to the person in question;
    - (b) in the case of a decision under section 31(6), or under subsection (3) or (5) of this section, or under section 12A(3) of the repealed Act, means the date on which the person concerned was informed of the decision.

**[The paragraphs in this subsection are labelled with Roman numerals and the subparagraphs with letters; most of the other provisions in the Act label paragraphs with letters and subparagraphs with Roman numerals.]**

### **34. Giving of certain public entertainments prohibited**

- (1) Any person who gives or permits the giving of any public entertainment in conflict with any prohibition or condition imposed under section 30, 31, 32 or 33, shall be guilty of an offence, unless it is proved that he was unaware of such prohibition or condition and could not reasonably be expected to have become aware thereof.
- (2) It shall be a sufficient defence to any charge that any person who fell within a specified age group was permitted to attend any public entertainment in conflict with any condition imposed under

section 30, 31, 32 or 33 in respect of such public entertainment, if it is proved that the accused believed on reasonable grounds that such person did not at the time of the commission of the act charged fall within such age group.

- (3) Any prohibition or condition imposed under section 12 or 12A of the repealed Act, shall for the purposes of subsection (1) be deemed to be a prohibition or condition imposed under section 30 of this Act.

## Chapter V

### Publications Appeal Board

#### 35. Publications Appeal Board

- (1) As often as may be necessary an appeal board, to be known as the Publications Appeal Board, shall be constituted in accordance with the provisions of subsection (2), to perform the functions entrusted to the appeal board under this Act.
- (2) (a) The appeal board shall consist of not fewer than seven members, of whom -
- (i) the chairman shall be a person who in the opinion of the State President is fit to serve as chairman by reason of his tenure of a judicial office or through experience as an advocate or attorney or as a lecturer in law at any university for a period of not less than 10 years;
  - (ii) the other members shall be persons whose names appear on the list referred to in subsection (3).

**[paragraph (a) amended by Act 60 of 1986]**

- (b) The chairman of the appeal board shall be appointed by the State President for a period of 5 years, and the other members of the appeal board shall be appointed by the chairman whenever it is necessary to do so and for the performance of such functions of the appeal board as the chairman may determine.
- (3) (a) The director shall every 5 years compile a list of the names of 13 persons designated by the State President under paragraph (b).

**[Paragraph (a) is substituted by Act 79 of 1977 with effect from 1 April 1980, in terms of section 23(3) of Act 79 of 1977. Section 23(4) of Act 79 of 1977 provides the following transitional provision: "The director shall increase the number of names on the list referred to in section 35 (3) of the principal Act which exists at the commencement of this Act, to 10 after the State President, with due observance of the provisions of the said section 35(3), has designated the names of 5 other persons." Paragraph (a) is also amended by Act 60 of 1986.]**

- (b) The persons designated by the State President for the purposes of the list referred to in paragraph (a) shall be persons who are in the opinion of the State President by reason of their educational qualifications and experience fit to perform the functions entrusted to the appeal board under this Act.
- (c) One of the persons designated under paragraph (b), shall be a person who is in the opinion of the State President fit to act as chairman of the appeal board by reason of his tenure of a judicial office or through experience as an advocate or attorney or as a lecturer in law at any university for a period of not less than 10 years.
- (d) Such list shall from time to time be supplemented by the director after the State President has designated the person or persons in question.
- (4) (a) If the chairman of the appeal board is unable to constitute from such list an appeal board for the performance of any function, the chairman shall appoint any other person or persons to serve on the appeal board for the performance of that function.

- (b) A person appointed under paragraph (a) shall be a person who in the opinion of the chairman is by reason of his educational qualifications and experience fit to perform the functions entrusted to the appeal board under this Act.
- (5) The conditions of office, remuneration and allowances of the members of the appeal board shall be determined by the Minister in consultation with the Minister of Finance.

**[subsection (5) amended by Act 60 of 1986]**

- (6) The chairman of the appeal board shall preside at all meetings of the appeal board at which he is present, and if the chairman is absent from any meeting, the person whose name was included in accordance with paragraph (c) of subsection (3) in the list referred to in that subsection, shall preside.
- (7) Seven members of the appeal board shall constitute a quorum, and the decision of the majority of the members present at a meeting of the appeal board shall be the decision of the appeal board: Provided that in the event of an equality of votes the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.

**[subsection (7) amended by Act 60 of 1986]**

- (8) The chairperson of the appeal board may in his discretion consult any person who in the opinion of the chairman is an expert on any matter relating to the functions of the appeal board.

**[subsection (8) amended by Act 109 of 1978]**

- (9)
  - (a) The administrative work incidental to the performance of its functions by the appeal board shall be performed by officers in the department designated by the Minister.
  - (b) The chairman of the appeal board shall designate one of such officers as clerk of the appeal board.
- (10) Pretoria shall be the seat of the appeal board: Provided that if it appears to the appeal board that by reason of the existence of special circumstances it is expedient to hold its sitting for the disposal of any particular matter at a place elsewhere than in Pretoria, the appeal board may hold such sitting at that place.

### **35A. Committees of experts**

- (1) The chairman of the appeal board may of his own accord and shall at the request of the directorate or any person referred to in section 13(1), 14(3)(b), 23(1), 24(2)(b), 31(1) or 32(2)(a) appoint a committee of experts to advise the appeal board in respect of a publication or object or an edition of a publication or object, or any film, or any public entertainment or intended public entertainment examined by the appeal board under this Act.
- (2) A committee of experts referred to in subsection (1) shall consist of such number of members, but no fewer than three, as may be appointed by the chairman of the appeal board subject to the provisions of section 35B.
- (3) Any person who has been designated under section 35B(4) and who is appointed as a member of a committee of experts under subsection (2), shall act as chairman of the committee of experts concerned: Provided that if two persons who have been so designated are appointed as members of the same committee of experts, the person who is determined by the chairman of the appeal board shall act as chairman of the committee of experts concerned, while the other person shall act as chairman of that committee in the absence of the first-mentioned person.
- (4) Three members of a committee of experts shall constitute a quorum and the decision of the majority of members present at a meeting of the committee of experts shall be the decision of the committee of experts: Provided that in the event of an equality of votes the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.

- (5) (a) The period of office of members of a committee of experts shall be determined on appointment.
- (b) The conditions of office, remuneration and allowances of members of a committee of experts shall be determined by the Minister in consultation with the Minister of Finance.

**[paragraph (b) amended by Act 60 of 1986]**

- (6) The advice referred to in subsection (1), together with minority opinions if any, shall, during the examination referred to in the said subsection, be made known to the parties concerned in the examination and shall form part of the documents in which reasons are furnished by the appeal board in terms of the provisions of section 36(5).

**[section 35A inserted by Act 109 of 1978 with effect from 2 October 1978]**

### **35B. Persons eligible for appointment as members of committees**

- (1) No person shall be appointed as a member of a committee of experts unless his name appears on the list referred to in subsection (2).
- (2) The chairman of the appeal board shall every three years compile a list of the names of the persons to be designated by the Minister under subsection (3).

**[subsection (2) amended by Act 60 of 1986]**

- (3) Persons designated by the Minister for the purposes of the list referred to in subsection (2), shall be persons who in the opinion of the Minister are by reason of their educational qualifications and special knowledge of and experience in art, language or literature fit to advise the appeal board in respect of a publication or object or an edition of a publication or object, or any film, or any public entertainment or intended public entertainment examined by the appeal board under this Act.
- (4) The Minister shall designate as many of the persons referred to in subsection (1) as he may deem necessary, to serve, subject to the provisions of the proviso to section 35A(3), as chairmen of committees of experts when they are appointed as members thereof.
- (5) The list referred to in subsection (2) shall be supplemented by the chairman of the appeal board from time to time when necessary after the Minister has designated the person or persons concerned.

**[section 35B inserted by Act 109 of 1978]**

### **36. Procedure of appeal board**

- (1) The chairman of the appeal board shall determine the procedure to be followed by the appeal board in the performance of its functions.
- (2) The appeal board shall decide on any matter -
  - (a) after examination of the publication or object or film in question;
  - (b) in the case of any public entertainment or intended public entertainment, after attending the public entertainment in question or after viewing a rehearsal of the intended public entertainment or, if the committee concerned gave its decision upon papers relating to that entertainment, after consideration of those papers;
  - (c) after consideration of -
    - (i) the reasons furnished by the committee concerned for its decision;
    - (ii) in the case of an appeal, the grounds of appeal;
    - (iii) representations made under this Act in relation to that matter;

- (iv) any document submitted under subsection (3)(b); and
  - (v) the evidence given by any person referred to in subsection (3)(c).
- (3) (a) Any person who appeals to the appeal board in respect of any matter, shall have the right to appear before the appeal board or to be represented by his legal representative when the appeal board hears his appeal, and to question persons giving evidence before the appeal board in relation to that matter, but shall not have the right to give or adduce evidence: Provided that the appeal board may in its discretion allow an appellant to give or to adduce evidence relating to any matter in connection with his appeal.
- (b) The chairman of the appeal board may direct -
  - (i) the chairman of the committee which gave the decision in question;
  - (ii) any member of the directorate; or
  - (iii) the appellant in question or any person who made representations relating to the matter concerned,to appear before the appeal board and to produce any document in the possession or under the control of that chairman, member, appellant or person and which, in the opinion of the appeal board, relates to the matter being considered by the appeal board.

**[paragraph (b) amended by Act 109 of 1978]**
- (c) The chairman of the appeal board may direct any person to appear before the appeal board and may direct such person to give evidence which, in the opinion of the chairman, relates to the matter being considered by the appeal board.

**[paragraph (c) substituted by Act 109 of 1978]**
- (d) Whenever the appeal board deems it necessary it may direct any person appearing before it under paragraph (c) to give his evidence on oath or affirmation.
- (e) The chairman of the appeal board may administer an oath to, or accept an affirmation from, any person referred to in paragraph (d).
- (4) The meetings of the appeal board shall not be open to the public: Provided that the appeal board may in its discretion allow members of the public to attend a particular meeting of the appeal board.
- (5) The appeal board shall furnish full reasons for its decisions.
- (6) (a) The chairman of the appeal board shall cause to be drawn up a report of every matter decided by the appeal board.
- (b) A report referred to in paragraph (a), shall contain in respect of the matter in question -
  - (i) the documents relating thereto; and
  - (ii) the decision of the appeal board and the reasons for its decision.
- (c) The chairman of the appeal board shall cause to be sent to the director two copies of such report.
- (7) The report referred to in subsection (6) shall be kept in the office of the clerk of the appeal board and in the office of the directorate, for inspection by the public, and copies thereof shall on the application of any person and on payment of the prescribed fee be furnished to such person.
- (8) The director shall submit one of the copies of the report referred to in subsection (6) to the chairman of the committee which examined the publication or object or film or public entertainment to which such report relates and may, if he deems it necessary, furnish the chairmen of other committees also with copies of such report.

- (9) Any appellant or person referred to in subsection (3) who refuses or fails to comply with a direction under that subsection or who gives an answer to a question put to him under that subsection which to his knowledge is incorrect, shall be guilty of an offence.

### **37. Contempt of appeal board**

- (1) No person shall -
- (a) insult, disparage or belittle any member of the appeal board, or prejudice, influence or anticipate the proceedings or findings of the appeal board;
  - (b) during a meeting of the appeal board wilfully interrupt the proceedings of the appeal board or misconduct himself in any other manner in the place where such meeting is held;
  - (c) do anything in relation to the appeal board which if done in relation to a court of law would have constituted contempt of court.
- (2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence.

### **37A. Influencing of directorate or committees**

- (1) No person shall prejudice, influence or anticipate the decisions of the directorate or any committees.
- (2) Any person who contravenes any provision of subsection (1), shall be guilty of an offence.

[section 37A inserted by Act 79 of 1977]

### **38. Decisions of committees, directorate or appeal board not appealable**

A decision of a committee, the directorate or the appeal board shall not be subject to appeal to a court of law.

### **38A. Statement of question of law for opinion of Supreme Court**

- (1) At any stage before giving a decision in terms of this Act, the appeal board may of its own accord and shall at the request of the directorate or any person referred to in section 13(1), 14(3)(b), 23(1), 24(2)(b), 31(1) or 32(2)(a), state any question of law arising in the course of the proceedings in question of the appeal board, in the form of a special case for the opinion of a division of the Supreme Court of South Africa, and shall transmit that special case to the registrar of that court.
- (2) If such special case is stated at the request of any person referred to in section 13(1), 14(3)(b), 23(1), 24(2)(b), 31(1) or 32(2)(a), he shall lodge with the registrar security to such an amount as the registrar may determine, in respect of any such costs as the court may order such person to pay.
- (3) A question of law referred to in subsection (1) may be argued before the court in question and such court may call for such further information, to be supplied by the appeal board, as it may deem fit.
- (4) The court may give such opinion in respect of the special case, as supplemented by the information referred to in subsection (3), if any, and may make such order as to the costs of the proceedings before it, as it may deem fit: Provided that no order of costs shall be made against any person referred to in section 13(1), 14(3)(b), 23(1), 24(2)(b), 31(1) or 32(2)(a) in any case in which a request as referred to in subsection (1) was not made to the appeal board by such person.
- (5) The directorate or any person referred to in subsection (1), shall have a right of appeal to the appellate division of the Supreme Court against an opinion referred to in subsection (4).
- (6) The provisions of subsection (2) shall apply mutatis mutandis in respect of an appeal referred to in subsection (5).



- (7) An opinion given under subsection (4) or (6) shall be binding on the appeal board when giving the decision referred to in subsection (1).

[section 38A inserted by Act 109 of 1978]

### **39. Review of decisions of appeal board by Supreme Court**

- (1) A review of a decision of the appeal board shall serve before three judges of a division of the Supreme Court of South Africa.
- (2) If the court reviewing a decision of the appeal board sets aside that decision, that court shall refer the matter in question back to the appeal board for its reconsideration and the giving of a decision: Provided that if the court sets aside a decision of the appeal board on the ground that the appeal board acted mala fide when rendering the decision in question, the court shall give the decision which the appeal board in its opinion should have given.
- (3) A decision of the court under the proviso to subsection (2) shall for the purposes of this Act be deemed to be a decision of the committee in question.

## **Chapter VI Miscellaneous Provisions**

### **40. Representations to appeal board in relation to applications for permits and exemptions**

- (1) Any person who applied under the provisions of section 8(3), 19(3), 27(1) or 28(5) to the directorate for any permit or exemption and who feels aggrieved by the refusal of his application or by the imposition of any condition or conditions in respect of a permit or exemption issued or granted to him, may appeal to the appeal board against such refusal or the imposition of such condition or conditions.
- (2) An appeal referred to in subsection (1) shall be noted within a period of thirty days from the date on which the person in question was informed of the decision of the directorate, shall be noted in the prescribed manner and shall be accompanied by the prescribed amount.
- (3) If an appeal referred to in subsection (1) relates to any condition or conditions subject to which a permit or exemption was issued or granted, the permit or document of exemption in question shall be submitted to the appeal board together with the notice of appeal.
- (4) The appeal board may confirm, vary or set aside the decision of the directorate which is the subject of an appeal under subsection (1) and the director shall inform the person who noted the appeal of the decision of the appeal board: Provided that if that appeal relates to any condition or conditions subject to which the permit or exemption in question was issued or granted, the appeal board shall not be competent to withdraw the permit or exemption.
- (5) If the appeal board under subsection (4) allows an appeal against the refusal of a permit or exemption, the director shall issue or grant to the person concerned a permit or exemption subject to such conditions (if any) as the appeal board may determine.
- (6) If the appeal board under subsection (4) varies, replaces or deletes any of the conditions of a permit or exemption, the director shall replace the permit or document of exemption in question by a permit or document of exemption which shall be in accordance with the decision of the appeal board.



**41. Admission of certain persons free of charge at exhibitions of films and at public entertainments**

- (1) Any person who is for the time being in charge of any place where any film is being exhibited or published, or any public entertainment is being given, shall on demand admit free of charge thereto any policeman or any other person who exhibits to him such written or other authority for such admission as may be prescribed.
- (2) Any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence.

**42. Undue influence of committee, directorate or appeal board prohibited**

- (1) No person shall do anything calculated to influence a committee, the directorate or the appeal board in its decision in relation to any matter which has been or is to be submitted by such person under this Act to that committee, the directorate or the appeal board for its consideration: Provided that the provisions of this section shall not be construed so as to prohibit any person from making representations or from appealing in accordance with the provisions of this Act.
- (2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence.

**42A. Copies of certain editions shall not be taken into account for purposes of fixing certain amounts**

- (1) If any edition of a publication or object published periodically in the Republic is in terms of a decision of a committee undesirable, no person shall take the number of copies of such edition into account for the purposes of fixing the amount payable to the publisher or owner of that publication or object in respect of the publication of anything in any subsequent issue thereof.
- (2) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence.

[section 42A inserted by Act 79 of 1977]

**42B. Prohibition of publication of certain advertisements**

- (1) No person shall publish in any publication or object any advertisement which relates to anything which in terms of a decision of a committee is undesirable.
- (2) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence.

[section 42B inserted by Act 79 of 1977]

**43. Penalties**

- (1) Any person who is convicted of a contravention of section 8(a), (b), (bA), (e), (d) or (e), 19, 27(1)(a) (i), (b), (c), (f) or (g), 29(8) or 34(1) shall be liable -
  - (i) in the case of a first conviction, to a fine of not more than R1 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
  - (ii) in the case of a second conviction, to a fine of not less than R1 000 and not more than R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment; and
  - (iii) in the case of a third or subsequent conviction, to a fine of not less than R2 000 or to imprisonment for a period of not less than six months or to both such fine and such imprisonment.

[The paragraphs in this subsection are labelled with Roman numerals rather than letters, unlike most of the others in the Act.]

- (2) Any person who is convicted of a contravention of section 8(1)(dA) or (dB) or 27(1)(h) or (i) shall be liable -
- (i) in the case of a first conviction, to a fine of not more than R10 000 or to imprisonment for period not exceeding five years or to both such fine and such imprisonment;
  - (ii) in the case of a second or subsequent conviction, to a fine of not less than R10 000 and not more than R20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

**[The paragraphs in this subsection are labelled with Roman numerals rather than letters, unlike most of the others in the Act.]**

- (3) Any person who is convicted of a contravention of a provision of section 17(5), 18(3), 24(9), 27(1)(a)(ii), (d) or (e), 28(7), 36(9), 37(2), 37A(2), 41(2), 42(2), 42A(2) or 42B(2) shall be liable to a fine of not more than R1 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

**[subsection (2), subsequently re-numbered subsection (3), substituted by Act 79 of 1977]**

- (4) A court which finds a person guilty of a contravention of -
- (a) Chapter III or VI in so far as the contravention is applicable in respect of a film;
  - (b) section 27 of the Copyright Act, 1978 (Act [No. 98 of 1978](#)), in so far as the contravention is applicable to a film as defined in that Act;

**[The Copyright Act 98 of 1978 has been replaced by the Copyright and Neighbouring Rights Protection Act 6 of 1994.]**

- (c) the Indecent or Obscene Photographic Matter Act, 1967 (Act [No. 37 of 1967](#)); or
- (d) section 113(1)(f) of the Customs and Excise Act, 1964 (Act [No. 91 of 1964](#)),

**[The Customs and Excise Act 91 of 1964 has been replaced by the Customs and Excise Act 20 of 1998.]**

shall, if it is of the opinion that, having due regard to all the circumstances relating to the commission of the offence, the person convicted is not fit to be registered under section 29 or of remaining to be so registered (as the case may be) declare such person to be incompetent to be or of remaining to be so registered (as the case may be), for a period not exceeding five years, reckoned from the date of the conviction.

- (5) Any person in respect of whom a declaration is made under subsection (4) shall, if he is the holder of a certificate issued under section 29, forthwith surrender the certificate to the director. (6) Any person in respect of whom a declaration under subsection (4) has been issued which is still in force, who is convicted of a contravention of section 19(1)(e) shall be liable to a fine of not more than R10 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

**[section 43 amended by Act 60 of 1986]**

#### 44. Regulations

- (1) The Minister may make regulations relating to
- (a) the convening of a meeting of a committee and the procedure at such meeting;
  - (b) the form and manner in which any application shall be made and the amount payable in respect of any application;
  - (c) the form of any permit, document of exemption or certificate;

- (d) the issue of a copy of a permit, certificate or document of exemption or any report referred to in section 36(6);
  - (e) the amount payable in respect of the examination of a publication or object or film, or the issue of a permit or a copy of a permit or certificate or a report referred to in section 36 (6);  
[paragraph (e) substituted by Act 79 of 1977]
  - (f) [paragraph (f) deleted by Act 60 of 1986]
  - (g) any matter which under this Act is required or permitted to be prescribed by regulation, and generally for the better achievement of the purposes of this Act.
- (2) Any regulation under paragraph (b) (in so far as it applies to a matter referred to in sections 16(3) and 29A(3)), (d) or (e) of subsection (1) shall be made in consultation with the Minister of Finance.  
[subsection (2) amended by Act 60 of 1986]
- (3) [subsection (3) deleted by Act 60 of 1986]
- (4) Different tariffs may be fixed in respect of the amounts payable in respect of copies of certificates issued under this Act.  
[subsection (4) amended by Act 60 of 1986]
- (5) Any regulation referred to in paragraph (e) of subsection (1) may, instead of prescribing specified amounts in respect of any matter, prescribe a general tariff according to which amounts payable in respect of any matter referred to in that paragraph shall be calculated.

#### 44A. Allowances payable to certain persons

There shall be paid to any person referred to in sections 3(1)(b) and (2), 17 and 35(8), the allowances determined by the Minister in consultation with the Minister of Finance.

[section 44A inserted by Act 60 of 1986]

#### 45. Exclusion of other laws in respect of exhibition or publication of films

The provisions of any other law in respect of the exhibition or publication of films shall not apply with reference to any matter in connection with such exhibition or publication provided for in this Act.

#### 46. Application of Act to South West Africa

This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.

#### 47. Definitions

- (1) In this Act, unless the context otherwise indicates
- “**appeal board**” means the Publications Appeal Board referred to in section 35(1);
  - “**application**” means any application under section 8(3), 10(1), 15(1), 21(1), 25(1), 28(5), 29 or 33;
  - “**board**” means the Publications Control Board referred to in section 2 of the repealed Act;
  - “**certificate of approval**”, in relation to a film, means the certificate referred to in section 22 issued in respect of the approval of that film;
  - “**committee**” means any committee referred to in section 4;

**“department”** means the Department of State under the control of the Minister and which the Minister designates for the purposes of this Act;

**“director”** means the Director of Publications referred to in section 2(2);

**“directorate”** means the Directorate of Publications referred to in section 2(1);

**“distribute”**, in relation to a publication or object, includes displaying or exhibiting in public or selling, hiring out or offering or keeping for sale or hire;

**“distributor”**, in relation to a film, includes a person who conducts business in the selling or hiring of films;

[definition of “director” inserted by Act 60 of 1986]

**“exemption”** means an exemption referred to in section 8(3), 19(3), 27(1) or (5) or 28(5);

[definition of “exemption” amended by Act 60 of 1986]

**“film”** means -

- (a) any sequence of visual images recorded on any substance, whether a film, magnetic tape or any other material, in such manner that by using such substance such images will be capable of being seen as a moving picture;
- (b) the sound track associated with and any exhibited illustration relating to a film as defined in paragraph (a);
- (c) any picture intended for exhibition through the medium of any mechanical, electronic or other device,

but does not include any film, as defined in paragraph (a), (b) or (c), imported or made by any Department of State;

[definition of “film” substituted by Act 44 of 1979 and amended by Act 98 of 1982]

**“importer”** has the meaning assigned thereto in the Customs and Excise Act, 1964 (Act [No. 91 of 1964](#));

[The Customs and Excise Act 91 of 1964 has been replaced by the Customs and Excise Act 20 of 1998.]

**“in public”** includes in or at any place to which admission is obtained for any consideration, direct or indirect or by virtue of membership of any association of persons or by virtue of any contribution towards any fund;

**“Minister”** means the Minister to whom the administration of this Act is from time to time assigned;

**“officer”** means any officer or employee as defined in section 1(1) of the Public Service Act, 1957 (Act [No. 54 of 1957](#)), and designated under section 2(4) or 35(9);

[The “Administration of South West Africa” and the “Secretary for South West Africa” were removed from the coverage of the Public Service Act 54 of 1957 by RSA Proc. R 112/1980 (RSA GG 7097). The public service in South West Africa was then governed by the Government Service Act 2 of 1980 (OG 4116), which was re-named the Public Service Act 2 of 1980 and replaced by the Public Service Act 13 of 1995.]

**“permit”** means a permit issued under section 12(2), 19(3) or 27(1);

**“place”** includes any vehicle, vessel or aircraft;

**“policeman”** any member of the police force;

[The definition of “policeman” is inserted by Act 60 of 1986. The word “means” or “includes” has been omitted after the word “policeman”.]

**“prescribe”** means prescribed by regulation;

**“produce”**, in relation to a publication or object, includes printing, publishing, manufacturing, making or reproducing;

**“publication or object”** includes -

- (a) any newspaper published by a publisher who is not a member of the Newspaper Press Union of South Africa;
- (b) any book, periodical, pamphlet, poster, or other printed matter except a poster issued as an advertisement of a newspaper published by a publisher who is a member of the Newspaper Press Union of South Africa;
- (c) any writing or typescript which has in any manner been duplicated or made available to the public or any section of the public;
- (d) any drawing, picture, illustration, painting, wood-cut or similar representation;
- (e) any print, photograph, engraving or lithograph;
- (f) any figure, cast, carving, statue or model; and
- (g) any record, magnetic tape, sound-track (except a sound-track associated with a film) or any other object in or on which sound has been recorded for reproduction;

[paragraph (g) amended by Act 60 of 1986]

**“public entertainment”** and **“intended public entertainment”** includes any entertainment given or to be given in public;

**“publish”**, in relation to a film, includes distributing, selling, hiring out or offering or keeping for sale or hiring out;

**“regulation”** means any regulation made under this Act;

**“repealed Act”** means the Publications and Entertainments Act, 1963 (Act [No. 26 of 1963](#));

**“Republic”** includes the territory of South West Africa;

**“Secretary”** means the secretary of the department;

**“this Act”** includes the regulations;

**“undesirable”** means undesirable within the meaning of subsection (2).

- (2) For the purposes of this Act any publication or object, film, public entertainment for intended public entertainment shall be deemed to be undesirable if it or any part of it -
  - (a) is indecent or obscene or is offensive or harmful to public morals;
  - (b) is blasphemous or is offensive to the religious convictions or feelings of any section of the inhabitants of the Republic;
  - (c) brings any section of the inhabitants of the Republic into ridicule or contempt;
  - (d) is harmful to the relations between any sections of the inhabitants of the Republic;
  - (e) is prejudicial to the, the general welfare or the peace and good order;

[Paragraph (e) is amended by AG 14 of 1989, resulting in a repetition of the word “the” and a superfluous comma.]

- (f) discloses with reference to any judicial proceedings
  - (i) any matter which is indecent or obscene or is offensive or harmful to public morals;
  - (ii) any indecent or obscene medical, surgical or physiological details the disclosure of which is likely to be offensive or harmful to public morals;
  - (iii) **[subparagraph (iii) deleted by Act 70 of 1979]**
- (3) **[subsection (3) deleted by Act 70 of 1979]**
- (4) In determining whether any publication or object is undesirable, no regard shall be had to the purpose of the person by whom that matter was produced or distributed.
- (5) For the purposes of this Act the importer of any publication or object, not being a publication or object imported under authority of a permit issued under this Act, or which according to the decision of a committee under section 113(3) of the Customs and Excise Act, 1964 (Act [No. 91 of 1964](#)), is not undesirable, shall be deemed to be the producer of that publication or object and to have produced that publication or object at the place where he is ordinarily resident.

**[The Customs and Excise Act 91 of 1964 has been replaced by the Customs and Excise Act 20 of 1998.]**

**48. Amendment of section 29 of Act [44 of 1958](#), as amended by section 21 of Act [26 of 1963](#)**

Section 29 of the Post Office Act, 1958 (Act [No. 44 of 1958](#)), is hereby amended by the substitution for the proviso to subsection (2) of the following proviso:

“Provided that whenever in the application of the provisions of this subsection the question arises as to whether any profane, blasphemous, indecent, obscene or offensive matter appears on the outside of any postal article or is enclosed therein, the Postmaster-General shall not take any decision in regard to that question except in consultation with a committee as defined in section 47 of the Publications Act, 1974, and designated by the directorate referred to in that section, for the purposes of this section, either generally or in any particular case.”.

**[The Post Office Act 44 of 195 has been replaced by the Posts and Telecommunications Act 19 of 1992.]**

**49. \*\*\***

**[section 49 deleted by Act 20 of 1998]**

**50. Amendment of section 1 of Act [37 of 1967](#)**

Section 1 of the Indecent or Obscene Photographic Matter Act, 1967, is hereby amended -

- (a) by the deletion of the definition of “board”;
- (b) by the insertion before the definition of “indecent or obscene photographic matter” of the following definition:
 

“‘committee’ means a committee as defined in section 47 of the Publications Act, 1974;”;
- (c) by the deletion of the definition of “the Publications Act”.

**51. Amendment of section 2 of Act [37 of 1967](#)**

Section 2 of the Indecent or Obscene Photographic Matter Act, 1967, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) The provisions of subsection (1) shall not apply in respect of any photographic matter -
  - (a) which in terms of a decision of a committee under the Publications Act, 1974, is not undesirable;

- (b) which in terms of a decision under section 113(3) of the Customs Act is not undesirable;
- (c) if a permit has been issued under the Publications Act, 1974, or the Customs Act for the importation of such photographic matter;
- (d) with reference to the printing or publishing of which the provisions of section 8 of the Publications Act, 1974, shall not apply by virtue of subsection (2) of that section;
- (e) which is in possession of any person or institution exempted under the provisions of section 8(3) of the Publications Act, 1974;
- (f) which has been approved under the provisions of section 21 of the Publications Act, 1974, or which has been exempted under section 19 of the said Act or in respect of which a permit has been issued under section 27(1) of the said Act.”.

## 52. Repeal of laws

The Publications and Entertainments Act, 1963 (Act [No. 26 of 1963](#)), the Publications and Entertainments Amendment Act, 1969 (Act [No. 85 of 1969](#)), the Publications and Entertainments Amendment Act, 1971 (Act [No. 32 of 1971](#)), and sections 26, 27 and 28 of the General Law Amendment Act, 1973 (Act [No. 62 of 1973](#)), are hereby repealed.

## 53. Short title and commencement

- (1) This Act shall be called the Publications Act, 1974, and shall, subject to the provisions of subsection (2), come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.
- (2) Different dates may be fixed under subsection (1) in respect of the several provisions of this Act.