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**THE FILMS AND PUBLICATIONS ACT NO 65 OF 1996**

The Films and Publications Act 65 of 1996 ("the Act") was enacted to provide for the regulation and control of certain films and publications by means of a system of classification and to that end to establish a Films and Publications Board (FPB) and a Films and Publications Review Board ("FPRB").

The Act, which came into operation on 01 May 1996, repealed the Publications Act 42 of 1974. Since coming into operation the Act has been subject to, inter alia, the following amendment acts which has substantially amended the Act in its original form:

- Films and Publications Amendment Act 34 of 1999;
- Films and Publications Amendment Act 18 of 2004;
- Films and Publications Amendment Act 3 of 2009.

The Act defines certain terms, such as:

- ✚ classification,
- ✚ computer software,
- ✚ distribute,
- ✚ distributor,
- ✚ film,
- ✚ in public,
- ✚ publication,
- ✚ visual presentation.

The Act is comprised of eight chapters and various schedules.

## Summary

In terms of the Act, a “classification” means any decision taken by the FPB in terms of this Act.

Chapter 3 deals with complaints and applications concerning publications.

Chapter 4 deals with the applications for the classification of films and the classification of films by the FPB.

Chapter 5 deals with certain procedural rights, including the right to appear before the FPB and the right to appeal to the FPRB and the High Court.

Chapter 6 deals with various exemptions which are afforded to persons in respect of publications and films.

Chapter 7 deals with the prohibition of conduct which is contrary to classifications.

Chapter 8 deals with the regulations, amendments and the repeal of certain acts.

## The Schedules

Films or publications are classified by assigning to each a specific mark or sign which indicates the content of the film or publication.

Schedule 1 deals with XX classifications for publications.

Schedule 2 deals with F18 classifications for publications.

Schedule 3 deals with R18 classifications of publications.

Schedule 4 of the Act deals with F18 classification for periodical publications.

Schedule 5 of the Act deals with the artistic and scientific exemptions in respect of publications.

Schedule 6 deals with XX classifications of films.

Schedule 7 deals with X18 classification for films.

Schedule 8 deals with age restrictions for films.

Schedule 9 deals with artistic and design exemptions for films.

Schedule 10 deals with hatred.

Schedule 11 deals with sexual conduct.

Schedule 12 deals with repeals.

### Object/Purpose of the Act

To understand the Act, the definitions assigned by the Act to the words such as "film", "publication" and "distribution" is important.

In terms of chapter 2, the object of the Act is to regulate or control:

- the distribution of certain publications; and
- the exhibition and distribution of certain films

primarily by means of classification (including classification guidelines) and the imposition of age restrictions and the giving of consumer advice with due regard being had to the fundamental rights enshrined in the Bill of Rights.

Two juristic persons have been established in terms of the Act, namely, FPB ("the Board") and the FPRB which operates independently of the former.

In terms of s10 of the Act, the Executive Committee established by the Board shall appoint classification committees as often as may be necessary.

Chapter 3 of the Act sets out the means by which any person may lodge a complaint against any type of publication distributed in the Republic which has not been classified.

A complaint so lodged shall be referred to a classification committee for a decision and classification in terms of s17.

Any person may, after the expiry of a period of two years from the date upon which a classification was published in the Gazette, lodge an application with the Board, applying for the imposition of more lenient conditions relating to the distribution of that publication or that such distribution be freed from all restrictive conditions.

The Chief Executive Officer (CEO) of the Board shall refer a complaint, under s1 and 2, to a classification committee for examination and classification.

In terms of the Act, no decision shall be taken on any complaint or application lodged in terms of s1 or 2 unless the publisher of that publication has been given a reasonable notice of the place where, the date, and time when the application will be heard provided that if a periodical publication is a subject of an application and notice which is received by the publisher concerned three days prior to the date of such hearing, such notice shall be regarded as reasonable notice.

In terms of s17 of the Act, a classification committee shall upon submission to it of a complaint or an application in terms of s16 examine and consider the content of the publication in the question and shall with reference to schedules 1, 2, 3, and 4 read with schedule 5, or with reference to schedule 10, classify the publication as

- a) XX if schedule 1 or 10 applies;
- b) X18 if schedule 2 applies;
- c) R18 if schedule 3 applies; or
- d) F18 if schedule 4 applies.

The classification committee shall:

- in the case of an F18 publication, impose any or both of the conditions referred to in schedule 3 and shall inform the CEO of its decision, the reason therefore and of the classification;
- in the case of a XX classification shall inform the CEO of its decision, of the particular clause of schedule 1 upon which the decision is based and in the case of R18 or F18 classification of the conditions imposed.

In terms of s17(2), the CEO shall, if a publication to which an application submitted in terms of section 61 relates has in terms of a decision of a classification committee been classified as being XX, X18, R18 or F18, cause the decision to be published in the government gazette.