

LEGISLATIVE ASSEMBLY

Read 1^o 24 November 1981

(Brought in by Mr Ramsay and Mr Borthwick)

A BILL

To make provision with respect to the Licensing of
Cinematograph Operators, to repeal section 390 (2) of
the *Health Act* 1958 and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and
with the advice and consent of the Legislative Council and
the Legislative Assembly of Victoria in this present Parliament
assembled and by the authority of the same as follows (that is to
say):

1. (1) This Act may be cited as the *Cinematograph Operators Act* 1981. Short title.

(2) This Act shall come into operation on a day to be fixed
by proclamation of the Governor in Council published in the
Government Gazette. Commence-
ment.

(3) This Act is divided into Parts as follows:

Part I.—Preliminary ss. 3–4.

Part II.—Cinematograph Operators Licensing Board ss. 5–8.

Part III.—Licensing of Cinematograph Operators ss. 9–13.

Part IV.—General ss. 14–21.

2. (1) Section 390 (2) of the *Health Act* 1958 shall be repealed. Amendment of
No. 6210
s. 390 (2).

Saving.

(2) Except as in this Act expressly or by necessary implication provided—

- (a) all persons things and circumstances appointed or created by or under the said amended Act or the said repealed provision or existing or continuing under such Act or such provision immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Act or such provision had not been so amended or repealed; 5
- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation order application appointment registration licence certificate record permission exemption proceeding notice liability or right made effected issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under such Act or such provision before the commencement of this Act. 10 15 20

PART I.—PRELIMINARY

Interpretation.

3. In this Act unless inconsistent with the context or subject-matter—

“Board.”

“Board” means the Cinematograph Operators Licensing Board established under this Act. 25

“Cinematograph.”

“Cinematograph” means—

- (a) any moving picture projector and the apparatus pertaining thereto used for the purpose of showing not less than 35 millimetre film; and 30
- (b) any prescribed moving picture projector and the apparatus pertaining thereto used for the purpose of showing less than 35 millimetre film.

“Inspector.”

“Inspector” means an inspector appointed for the purposes of this Act. 35

“Licensed operator.”

“Licensed operator” means any person who holds a licence or a conditional licence to operate a cinematograph under this Act.

“Prescribed.”

“Prescribed” means prescribed by this Act or the regulations.

“Public building.”

“Public building” has the same meaning as in the *Health Act 1958*. 40

“Register.”

“Register” means the Register of Cinematograph Operators kept under this Act.

“Registrar”

“Registrar” means the Registrar of Cinematograph Operators appointed under this Act. “Registrar.”

“Regulations” means the regulations under this Act. “Regulations.”

4. (1) Subject to the *Public Service Act* 1974 there shall be appointed a person to be the Registrar of Cinematograph Operators and such inspectors and other persons as are required for the purposes of this Act. Registrar of Cinematograph Operators.

(2) Every person appointed under the provisions of the *Industrial Safety, Health and Welfare Act* 1981 to be an inspector for the purposes of that Act shall without any further or other appointment become and be an inspector for the purposes of this Act in all respects as if he were appointed under this Act to be an inspector for the purposes of this Act. Inspectors under *Industrial Safety, Health and Welfare Act* 1981 to be inspectors for purposes of this Act.

PART II.—CINEMATOGRAPH OPERATORS LICENSING BOARD

5. (1) For the purposes of this Act there shall be a Board to be called the Cinematograph Operators Licensing Board. Cinematograph Operators Licensing Board.

(2) The Board shall consist of three members appointed by the Governor in Council of whom— Members.

(a) one shall be a person nominated by the Minister who shall be chairman;

(b) one shall be a person nominated by the Minister from a panel of three names submitted by the Cinematograph Exhibitors Association; and

(c) one shall be a person nominated by the Minister from a panel of three names submitted by the Australian Theatrical and Amusement Employees Association.

(3) If any organization fails or neglects to submit a panel of names for the purposes of sub-section (2) within one month after being requested in writing by the Minister to do so the Governor in Council may without the submission appoint any person to be a member of the Board.

(4) Subject to this Act a member of the Board shall be appointed for a term of not more than three years and upon the expiration of that term shall be eligible for re-appointment. Period of appointment.

(5) The Governor in Council may at any time remove any member of the Board.

(6) On the occurrence of any extraordinary vacancy in the Board the Governor in Council may appoint a person to fill the vacancy and any person so appointed shall hold office for the remainder of the period for which his predecessor was appointed.

(7) A member

(7) A member or deputy member of the Board who is not an officer or employé in the public service shall be entitled to receive such fees travelling and other expenses and allowances as are from time to time fixed by the Governor in Council.

(8) The Board shall meet at such times and places as the Board decides. 5

(9) A quorum of the Board shall consist of all the members.

Deputy
members.

(10) If any time any member (including the chairman) is absent from Victoria or is unable to carry out his duties as a member of the Board the Minister may appoint some person to be a deputy member during the period of such absence or inability and such deputy member shall during that period have the powers and carry out the duties of the member whose deputy he is. 10

Chairman and
members of
Board of
Examiners to
continue in
office.

(11) Notwithstanding anything to the contrary in this section, the persons who immediately prior to the commencement of this Act were the chairman and members respectively of the Board of Examiners under the Health (Cinematograph Operators) Regulations 1980 shall on the commencement of this Act be the chairman and members respectively of the Cinematograph Operators Licensing Board under this Act for the remainder of their period of appointment under those Regulations or until removed by the Minister. 15 20

Cinematograph
Operators
Licensing
Board successor
in law to the
Board of
Examiners.

6. The Cinematograph Operators Licensing Board under this Act shall be the successor to the Board of Examiners under the Health (Cinematograph Operators) Regulations 1980 and anything validly done or any registration validly made or licence validly granted by the said Board of Examiners prior to the commencement of this Act shall, on and after such commencement, be as valid and effective as if it had been done made or granted by the Cinematograph Operators Licensing Board under this Act. 25 30

Powers and
duties of the
Board.

7. Subject to this Act the powers and duties of the Board shall be—

- (a) to establish or assist in establishing and to review programs for the training of persons for the purpose of qualification for licensing under this Act; 35
- (b) to conduct or cause to be conducted examinations for the licensing of cinematograph operators;
- (c) to approve examinations qualifications and training for the purpose of qualification for licensing under this Act; 40
- (d) to appoint examiners in cinematograph operation;
- (e) to advise the Minister in respect of the licensing of cinematograph operators;

(f) to

- (f) to approve and record training agreements;
- (g) to issue licences under this Act;
- (h) to suspend or cancel the licence of any person under this Act and to annul such suspension or cancellation;
- 5 (i) to take proceedings for offences against this Act or the regulations; and
- (j) generally, to do any other act or exercise any other power or perform any other duty necessary for carrying the provisions of this Act into effect.
- 10 8. All proper costs and expenses (including fees and travelling and other expenses of members) of and incidental to the exercise of the powers and functions of the Board shall be paid out of moneys provided by Parliament for the purpose.

Costs and
expenses of
Board.

PART III.—LICENSING OF CINEMATOGRAPH OPERATORS

- 15 9. (1) Any person who applies to the Board for approval as a trainee operator shall be so approved if the Board is satisfied that such person—
- (a) is employed as an assistant operator; and
- (b) is at least fifteen years old.
- 20 (3) The Registrar shall issue a card in the prescribed form to each approved trainee and record the prescribed particulars in relation to the approved trainee in the register.
10. (1) Any person who applies to be licensed under this Act shall be so licensed if the Board is satisfied that such person—
- 25 (a) is an approved trainee who has achieved the prescribed standard of training and has passed the prescribed examination;
- (b) has achieved a standard of training undergone outside Victoria which is recognized by the Board as being substantially equivalent to that prescribed; or
- 30 (c) if trained outside Victoria has undergone such supplementary training as is deemed necessary by the Board and has passed the prescribed examination.
- (2) A person shall not be licensed under this Act unless the
- 35 Board is satisfied that—
- (a) he is at least eighteen years old; and
- (b) he has paid the fees prescribed for examination and licence.
- 40 (3) A licence under this Part may be a general licence to operate all classes of cinematograph equipment or a conditional licence to operate specified equipment in a specified location.

Approved
trainees.

Persons
entitled to
licence.

(4) A licence

(4) A licence continues in force until it is surrendered by the holder to the Board or suspended or cancelled under section 11.

(5) Where the Board is unable for any reason to consider any application for a licence pursuant to sub-section (1) forthwith the chairman may if satisfied that the applicant has fulfilled the requirements to be licensed grant a temporary licence to operate a cinematograph subject to such conditions as to period currency place and apparatus as he thinks fit. 5

Cancellation
or suspension
of a licence.

11. (1) The Board may by order cancel or suspend the licence of a person— 10

- (a) whose licence was obtained by fraud or misrepresentation;
- (b) who has been convicted of an offence against this Act or the regulations or any regulation made under section 390 (2) of the *Health Act* 1958;
- (c) who is no longer fit to carry out the duties of a cinematograph operator in a competent manner. 15

(2) The Board shall not suspend or cancel the licence of any person under sub-section (1) unless—

- (a) it has sent to the person by registered post, notice in writing of the intention to cancel or suspend the licence and the grounds upon which the intention is based; and 20
- (b) it has held an inquiry into the matter and afforded the person an opportunity to give an explanation personally or in writing.

(3) The suspension of the licence of a person under this section has effect for such period as the Board determines when suspending the licence, but the Board may at any time revoke the suspension. 25

(4) Where the licence of a person is suspended under this section—

- (a) the suspension shall be recorded in the register; and 30
- (b) the person shall, during the period of the suspension, be deemed to be an unlicensed person for the purposes of this Act.

Appeal against
decision of
Board.

12. (1) A person who feels aggrieved by an order of the Board cancelling or suspending his licence or refusing to grant him a licence may appeal to a stipendiary magistrate within three months after the notification of the order or decision. 35

(2) The stipendiary magistrate shall entertain inquire into and decide upon the appeal and for that purpose may do all such matters and things relating thereto and in the same manner and to 40

the

the same extent as he is empowered to do in the exercise of his ordinary jurisdiction and his decision shall be final and without appeal.

13. Every candidate for examination or supplementary examination conducted by the Board and every applicant for a licence shall pay to the Board such fees as are prescribed but such fees shall not exceed \$50 for an examination or supplementary examination and \$50 for a licence. Fees.

PART IV.—GENERAL

- 10 14. (1) A person, other than—
 (a) a licensed operator; or
 (b) an approved trainee who is working under the direct supervision and in the presence of a licensed operator—
 who operates any cinematograph in a public building shall be guilty
 15 of an offence.
 Penalty: \$500.
- (2) A licensed operator who operates any cinematograph contrary to the conditions of his licence shall be guilty of an offence.
 Penalty: \$500.
- 20 (3) A trainee operator who operates any cinematograph contrary to the conditions of the licence of the operator under whose supervision he is working shall be guilty of an offence.
 Penalty: \$500.
- 25 15. A person shall not—
 (a) procure or attempt to procure a licence under this Act by making or producing or causing to be made or produced any false or fraudulent declaration certificate application or representation either in writing or otherwise; or
 30 (b) impersonate or attempt to impersonate any candidate at any examination authorized or conducted by the Board; or
 (c) wilfully make or cause to be made a falsification in or in any manner relating to the register.
 35 Penalty: \$500.
16. (1) Any person who—
 (a) fails or neglects or refuses to comply with a lawful order or direction of the Board made under this Act; or
 (b) contravenes or fails to comply with a regulation—
 40 is guilty of an offence.
 Penalty: \$500.

Offence to operate cinematograph without a licence.

Penalty for fraud.

Penalty for failing to comply with orders of Board or with regulations.

(2) A person

(2) A person who contravenes a provision of this Act for which no other penalty is provided is liable to a penalty not exceeding \$500.

Proceedings
for an offence.

17. (1) Proceedings for any offence against this Act or the regulations may be taken by a person authorized by the Chairman of the Board either generally or in a particular case. 5

(2) All courts and persons acting judicially shall take judicial notice of the signature of every person who is or has been Chairman of the Board to any document authorizing a person to take proceedings pursuant to this section. 10

Register.

18. (1) The Board shall cause to be kept a Register of Cinematograph Operators which shall be in the prescribed form and contain the prescribed particulars.

(2) A certificate signed by the Registrar stating that a person is or is not or was or was not licensed under this Act shall be *prima facie* evidence of the facts stated in the certificate. 15

(3) The production of the register or an extract from the register certified by the Registrar shall be *prima facie* evidence of the matters appearing therein.

(3) When any licensed operator or approved trainee changes his address or place of occupation he shall notify the Registrar within fourteen days and forward his licence or card of approval (whichever is the case) with such notification. 20

Inspectors.

19. (1) Every inspector shall have power at any reasonable time for the purposes of the execution of this Act— 25

- (a) to enter inspect and examine any public building to determine whether the provisions of this Act are or have been complied with and generally enforce the provisions of this Act;
- (b) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are or have been complied with so far as respects any public building and the persons employed therein; 30
- (c) examine any projector equipment apparatus film article or thing in the building; 35
- (d) exercise such other powers as are necessary for carrying this Act into effect.

(2) Every inspector shall be furnished by the Secretary to the Department of Labour and Industry with a certificate of his appointment which shall be produced on demand to the occupier or person in charge of any building which an inspector intends to enter or enters in the course of his duty under this Act. 40

(3) No

(3) No person shall be required under this section to answer any question or give any evidence tending to criminate himself.

(4) The provisions of sections 23 and 24 of the *Industrial Safety, Health and Welfare Act* 1981 shall apply to and in relation to 5 inspectors exercising their powers under this Act as if they were inspectors under that Act.

10 20. (1) The Board shall in the month of February in each year submit to the Minister a report of its proceedings and activities during the preceding calendar year together with such recommendations relating to the administration of this Act as the Board thinks fit. Annual report.

(2) The Minister shall cause such report to be laid before both Houses of Parliament as soon as practicable.

15 21. The Governor in Council may on the recommendation of the Board make regulations for or with respect to— Regulations.

- (a) the conduct of proceedings of the Board;
- (b) prescribing the form of and regulating the issue of licences under this Act;
- 20 (c) prescribing the standard of training for persons desiring to be licensed under this Act;
- (d) the approval of courses of training for cinematograph operators at specified institutions;
- 25 (e) providing for the licensing of persons who were at the commencement of this Act registered or licensed as cinematograph operators pursuant to the Health (Cinematograph Operators) Regulations 1980;
- 30 (f) regulating and supervising the conduct of and prescribing the form and standard of examinations and the remuneration of examiners and any other matter connected with examinations authorized or conducted by the Board;
- (g) prescribing the form of the register and of entries therein and the particulars to be contained in the register;
- 35 (h) prescribing the particulars required to be given in any notice under this Act;
- (i) generally, any matter or thing which is required or authorized to be prescribed by this Act.

