

GOVERNMENT NOTICE

No, R

2022

FILMS AND PUBLICATIONS ACT, 1996 (ACT NO. 65 OF 1996), AS AMENDED

FILMS AND PUBLICATIONS AMENDMENT TARIFF'S REGULATIONS, 2022

I, Ms Khumbudzo Phophi Silence Ntsavheni, the Minister of Communications and Digital Technologies hereby, under section 31(1)(a) of the Films and Publications Act, 1996 (Act No. 65 of 1996), as amended, after consultation with the Minister of Finance, Council, Enforcement Committee and the Appeals Tribunal, whichever is applicable, hereby amend the Films and Publications Tariff's Regulations published under a notice under GG No. 43872 of 6 November 2020, by amendment of all Schedules, through the Amended Films and Publications Tariff's Regulations, 2022 going herewith.

The Regulations concerned will come into operation on publication in the Government Gazette.

MS K. P. S. NTSAVHENI, MP

MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES

Date:

SCHEDULE 1

1. Physical Content and Distributor Size

1.1. Physical Content Tariffs

Tariff Number	Serial No.	Services	Tariffs		
			Small client	Medium client	Large client
	1	REGISTRATION			
001	1.1	Distributor or exhibitor of films or interactive computer games: Online registration	R1,432.19	R1,432.19	R1,432.19
002	1.1.1	Distributor or exhibitor of films or interactive computer games: Manual registration	R1,916.23	R1,916.23	R1,916.23
003	1.2	Internet Service Provider	R716.10	R716.10	R716.10
004	1.3	Annual Renewal or distribution certificate: Online	R97.28	R194.55	R291.83
005	1.3.1	Annual Renewal or distribution certificate: Manual	R127.75	R255.50	R383.25
006	1.4	Issue of new certificate on change of details	R153.53	R305.89	R459.43
	2	CLASSIFICATION			
	2.1	Publication submitted in terms of section 16(4) of the Films and Publications Act, 1996 (Act No. 65 of 1996), as amended			
007	2.1.1	Periodical (annual fee)	R9,625.69	R19,251.39	R28,877.08
008	2.1.2	Single issue	R1,085.28	R2,169.38	R3,254.66
	2.2	FILMS			
	2.2.1	Public Entertainment Release Format			
009	2.2.1.1	New release of original English-language film	R2,006.48	R4,011.78	R6,018.26
010	2.2.1.2	New release of original non-English language film (Subtitled) – 50% of the original language	R1,003.24	R2,005.30	R3,008.54
011	2.2.1.3	New release of an adult movie (First 3 hours)	R2,006.48	R4,011.78	R6,018.26
012	2.2.1.4	New release of an adult movie (3 to 4 hours)	R2,603.03	R5,204.88	R7,807.91
013	2.2.1.5	New release of an adult movie (4 to 6 hours)	R3,199.58	R6,397.99	R9,597.56

014	2.2.1.6	Trailer of a film (fee rate per minute)	R19.92	R39.85	R59.77
015	2.2.1.7	Re-release of original English language film – 50% of the applicable tariffs	R1,003.24	R2,005.30	R3,008.54
016	2.2.1.8	Re-release of original non-English language film (Subtitled) – 50% of the applicable tariffs	R1,003.24	R2,005.30	R3,008.54
	2.2.2	Home Entertainment Release Format			
017	2.2.2.1	New release of original English-language film (First 1 hours)	R901.27	R1,704.23	R2,556.90
018	2.2.2.2	New release of original English-language film (2 to 3 hours)	R1,351.32	R2,556.90	R3,835.36
019	2.2.2.3	New release of original English-language film (3 to 5 hours)	R1,802.55	R3,409.58	R5,114.92
020	2.2.2.4	New release of original non-English language film (Subtitled)	R1,341.95	R2,682.72	R4,024.67
021	2.2.2.5	New release of original non-English language film (Not Subtitled)	R1,341.95	R2,682.72	R4,024.67
022	2.2.2.6	New release of an adult movie (First 3 hours)	R2,006.48	R4,011.78	R6,018.26
023	2.2.2.7	New release of an adult movie (3 to 4 hours)	R2,603.03	R5,204.88	R7,807.91
024	2.2.2.8	New release of an adult movie (4 to 6 hours)	R3,199.58	R6,397.99	R9,597.56
025	2.2.2.9	Re-release of original English-language film	R451.22	R901.27	R1,352.50
026	2.2.2.10	Re-release of original non-English language film (Not-subtitled)	R671.56	R1,341.95	R2,013.51
027	2.2.2.11	Re-release of original non-English language film (Subtitled)	R2,236.19	R4,471.21	R6,707.40
	2.2.3	Serials in any language or format			
028	2.2.3.1	Foreign Productions (First 3 hours)	R2,006.48	R4,011.78	R6,018.26
029	2.2.3.2	Foreign Productions (Per hour thereafter)	R357.46	R714.92	R1,072.39
030	2.2.3.4	South African Productions (First 5 hours)	R2,006.48	R4,011.78	R6,018.26
031	2.2.3.5	South African Productions (Per hour thereafter)	R357.46	R714.92	R1,072.39
	2.2.4	Films produced in Africa			
032	2.2.4.1	Public Entertainment Release Format	R535.61	R1,070.04	R1,605.65
.033.	2.2.4.2	Home Entertainment Release Format	R486.38	R972.77	R1,459.15
	2.3	GAMES			

034	2.3.1	New release in original format	R1,637.29	R3,274.59	R4,911.88
035	2.3.2	New release in different format	R1,637.29	R3,274.59	R4,911.88
036	2.3.3	Re-release in original format	R818.06	R1,636.12	R2,454.18
037	2,34	Re-release in different format	R818.06	R1,636.12	R2,454.18
038	2.3.5	Re-classification of games distributed with magazine	R819.23	R1,638.47	R2,457.70
039	2.3.6	Classification of posters of films and posters of games	R26.96	R53.91	R80.87
	2.4	EXEMPTIONS			
040	2.4.1	Exemption of Films for Film Festival	R1,337.26	R2,673.35	R4,010.61
041	2.4.2	Exemption of a film in home-entertainment format	R644.60	R1,289.21	R1,933.81
042	2.4.3	Exemption of a film in home-entertainment format (additional disc/ content)	R162.91	R325.82	R488.73
043	2.4.4	Exemption of an Interactive computer game	R802.82	R1,604.48	R2,407.30
044	2.4.5	Copy of a certificate of registration, classification or exemption or decision	R321.49	R321.49	R321.49
045	2.4.6	List of all titles classified by the Board (per year)	R1,337.26	R2,673.35	R4,010.61
	3	APPLICATION FOR AN ACCREDITATION OF A FOREIGN OR INTERNATIONAL CLASSIFICATION SYSTEM			
046	3.1	Application Fee	R1,500.00	R1,500.00	R1,500.00
	4	COMPLAINT LODGED BEFORE THE ENFORCEMENT COMMITTEE			
047	4.1	Copy of finding by Enforcement Committee	R48.05	R96.10	R144.16
	5	APPEAL TO THE APPEAL TRIBUNAL			
048	5.1	Appeal of a trailer of a film	R4,011.78	R8,023.56	R12,035.34
049	5.2	Appeal of a film	R4,011.78	R8,023.56	R12,035.34
050	5.3	Appeal of a game	R3,274.59	R6,549.17	R9,823.76
051	5.4	Appeal of a periodical publication	R19,251.39	R38,502.77	R57,754.16
052	5.5	Appeal of a single issue publication	R2,169.38	R4,338.77	R6,508.15
053	5.6	Appeal of an adult film	R6,397.99	R12,794.80	R19,192.78

054	5.7	Appeal of finding by the Enforcement Committee	5% of the finding issued by the Enforcement Committee	3% of the finding issued by the Enforcement Committee	2% of the finding issued by the Enforcement Committee
055	5.8	Copy of finding of Appeal Tribunal	R48.05	R96.10	R144.16
	6	EXPEDITED CLASSIFICATION			
056	6.1	Charged at an additional 25% of the applicable classification fee			

1.2. Split of revenue by client size

Distributor size	Number of titles submitted previous year	Proportion of relevant fee income
Small	Less than 5 (five) titles	20%
Medium	5 (five) to 99 (ninety-nine) titles	50%
Large	100 (hundred) + titles	30%

SCHEDULE 2

2. Online Distribution

2.1. Online Distributor Annual License Fees for Commercial Online Distributors who elect to Self-classify Films, Serials and Games and/or to Apply for the Accreditation of an International or Foreign Classification System

Number of Titles	Films		Serials	Games
	Full length	Short form (not exceeding 15 minutes)		
50 to 499 titles	R303.91 per title	R50, 00 per title	R1,215.65 per season	R372.44 per title
500 to 999 titles	R243.13 per title	R40, 00 per title	R972.52 per season	R297.95 per title
1 000 + titles	R194.51 per title	R32, 00 per title	R778.01 per season	R238.37 per title

The fees above are applied in a stepped fashion (i.e. If a distributor offers more than 1,000 titles, the "50 to 499 titles" fee is applied for the first 499 titles, the "500 to 999 titles" fee is applied for the next 500 titles, and the "1 000 + titles" fee is applied for the remaining titles).

The above online distributor annual license fees are capped at R2,000,000.00 subject to the annual increase prescribed in Schedule 3 (4).

Alternatively,

The Annual Licence Fee payable by the Commercial Online Distributor in accordance with these Regulations are to be calculated using the formula set out herein, read with the applicable percentages.

Pa = Payable Annual Licence Fee

T = Turnover due to licenced activities

Pp = Applicable percentage

$$Pa = Pp \times (T)$$

Percentage	
0 to 499 titles on the platform	1.5%
500 to 999 titles on the platform	2%
1000 + titles on the platform	2.5%

SCHEDULE 3

PAYMENTS IN RESPECT OF ANNUAL LICENCE FEES

3. Format for submission of Financial Statement for the Purposes of the Annual Licence Fees Calculation

Commercial Online Distributor		
Company Name		
Financial Year End		
Financial Year		
Auditing Firm / Partner		
Accounting Officer	Name:	Signature:
Company Chief Financial Officer / Accounting Officer	Name:	Signature:

As per Annual Financial Statement	
Total Revenue Generated (R '000)	
Total Non-licenced Revenue (R '000)	
Total Licenced Revenue (R'000)	

Revenue from Licenced Services		
	R '000	
1. Film – Full length feature	RXX	
2. Film – Short form feature	RXX	
3. Serial	RXX	
4. Game	RXX	
Total Revenue from Licenced Services		RXX

I, _____, in my capacity as _____ hereby verify that the information provided is true and correct and have been reviewed by an Auditor / Accounting Officer.

Signature _____ Designation _____ Date: _____

4. Submission of Financial Statements

4.1. All licence holders must:

4.1.1. Submit audited Annual Financial Statements within six (6) months of their financial year end;
or

4.1.2. Submit financial statements signed and sworn to by the accounting officer of the licensee where the licensee is not legally obliged to provide audited financial statements.

5. Payment of the Annual Licence Fee

- 5.1. Unless expressly authorized by the Council of the Film and Publication Board, all payments in respect of licence fees are due annually.
- 5.2. Annual Payments
- 5.2.1. Are due annually based on the licensee's financial year;
- 5.2.2. Are due and payable within six (6) months from the end of the licensee's financial year;
- 5.2.3. May only be paid by way of an electronic transfer or via a direct deposit into the bank account of the FPB; and
- 5.2.4. Must be based on the:
- (a) Audited annual Financial Statements of the licensee; or
 - (b) Financial Statements signed and sworn to by the account officer of the licensee where the licensee is not legally obliged to provide audited financial statements;
 - (c) Are to be adjusted immediately on receipt of the applicable annual financial statement of the licensee which must be submitted within six (6) months from the financial year end;
- 5.2.5. Must be submitted as in Schedule 3 (3) of the Regulations and must be submitted as an annexure to the Annual Financial Statement and be subject to audit; and
- 5.2.6. Which are estimates must be submitted as in Schedule 3 (3) of the Regulations, these must be used for the purposes of comparison to the final submission of the annual payments.

SCHEDULE 4

6. Interest on Overdue Accounts

If any distributor fails to pay any sum (including, without limitation, any sum payable pursuant to any applicable tariff fee listed in section 1 and 2) on its due date for payment under this Regulation the distributor shall pay interest on such sum from the due date up to the date of actual payment (as well after as before judgment) at the rate at which *mora* interest is charged determined by the Minister of Justice and Correctional Services from time to time, and which currently stands at 7% per annum.

7. Consumer Price Index Increase

The above tariffs are subject to an annual Consumer Price Index (CPI) increase plus 1% effective from 1 April of every year duly published in the Government Gazette. The CPI indicates the annual headline consumer inflation rate published from time to time by Statistics South Africa (STATSSA) and broadly accepted as an economic inflation indicator. For the purposes of the Tariffs, the CPI will be calculated as the average CPI rates provided by STATSSA for the months 1 April from the preceding year to 31 March of the following year will constitute the CPI figure to be taken into account for any CPI-linked increments that must be implemented from 1 April of the applicable year.