

GOVERNMENT NOTICE

No, R

2022

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

**REGULATIONS ON THE PROCESSES AND PROCEDURES FOR APPLYING
OR REGISTERING, AMENDING, TRANSFERRING AND RENEWING
LICENCES AND TERMS AND CONDITIONS TO BE APPLIED TO
SUCH LICENCES IN TERMS OF THE FILMS AND PUBLICATIONS ACT, 1996 (ACT
NO. 65 OF 1996), AS AMENDED**

I, Ms Khumbudzo Phophi Silence Ntsavheni, the Minister of Communications and Digital Technologies hereby, under section 31(1) of the Films and Publications Act, 1996 (Act No. 65 of 1996), as amended, after consultation with the Council, the Appeals Tribunal, the Enforcement Committee, whichever is applicable, made the Regulations in the Schedules listed below.

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

PART 1

1. **Definitions.** – In this Schedule, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned and, unless the context otherwise indicates –

“**Act**” means the Films and Publications Act, 1996 (Act No. 65 of 1996), as amended from time to time;

“**adult content**” means content in publications, films and games that is classified as suitable for people of 18 (eighteen) years and above;

“**adult premises**” means any premises –

- (a) at which the holder of a registration certificate to distribute or exhibit materials classified as "X18" may conduct business;
- (b) at which entry of any person under the age of 18 (eighteen) years, is prohibited; and
- (c) which is licensed to conduct the business of adult premises under the Businesses Act, 1991 (Act No. 71 of 1991);

“**business of adult premises**” means a business contemplated in section 24 (1) of the Act;

“**certificate**” means a certificate issued by the FPB in terms of any applicable provision of the Act empowering the FPB to issue a licence or permit after receipt of an application;

“**child**” means a person under the age of 18 (eighteen) years;

"**classification guidelines**" means the classification guidelines contemplated in section 4A (1)(a) of the Act;

"**commercial online distributor**" means a distributor in relation to films, games and publications which are distributed for commercial purposes using the internet;

"**commercial purposes**" means to sell or hire, offer to sell or hire, or cause to be sold or hire, in exchange for commercial consideration;

"**day**" means any number of days prescribed in these Regulations and shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or official South African Public Holiday, in which case the last day shall be the next succeeding business day;

"**FPB**" means the Film and Publication Board, established in terms of section 3 of the Act;

"**non-compliant**" means a failure or refusal to comply with the Act, Regulations, Classification Guidelines or the terms and conditions contained in an online distribution agreement;

"**prescribed fee**" means the applicable fee prescribed by regulation by the Minister, in consultation with the Minister of Finance, from time to time, under section 31 (1)(a) of the Act;

"**public holiday**" means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act 36 of 1994);

"**rating**" means the allocation of an appropriate age restriction on a film, game or publication to –

(a) provide consumer advice to enable adults to make informed viewing, reading and

gaming choices, both for themselves and for children in their care; and

- (b) protect children from exposure to disturbing and harmful materials and from premature exposure to adult experiences;

“**reasonable period of time**” means the amount of time that is fairly required to do whatever is required to be done, conveniently under the permitted circumstances; and

PART 2

GENERAL PROVISIONS

- 2. **General provisions applicable to applications for licences and permits, and registrations for licences and permits.** – (1) Applicants for licences and permits, must comply with these general application provisions and the specific provisions of these regulations applicable to licences and permits.
 - (2) Application and registration forms to be used when submitting applications or when registering, together with instructions and information as to the submission of such forms, whether in paper format or electronically, may be accessed from the FPB’s offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB’s website.
 - (3) Applications and registrations submitted to the FPB must be complete and contain all information requested on the applicable form, together with the instructions and any additional information required by these Regulations and any Regulations pertaining to the specific application or registration.
 - (4) Failure to supply all required information required may result in the FPB not considering the application or registration.
 - (5) Applicants are responsible for the accuracy and completeness of information

furnished in their applications or registrations during the period they are pending before the FPB and whenever the information furnished in the pending application or registration is inaccurate and/or incomplete, the applicant, shall within 15 (fifteen) days of notification by the FPB, provide the amendments to the applications or registrations which provides the additional or corrected information.

- (6) All applicants must comply with requests by the FPB to supply information, including supporting documentation to supplement their applications or registrations and participate in any process established by the FPB for reviewing and considering such applications or registrations.
- (7) The failure to timely supply information or participate in a process established by the FPB, following due notice, can result in dismissal of the application or registration.
- (8) Every applicant must include as part of their application or registration –
 - (a) a form signed by the applicant that it will comply with all applicable standard terms and conditions, any additional terms and conditions applicable to its licence or permit, and the obligations imposed by the FPB;
 - (b) the information contained in its application or registration, including any attachments thereto, or documentation incorporated therein is, to the best of the applicant's knowledge is correct, complete and accurate;
 - (c) where the application or registration is not submitted by a natural person, proof of registration of the business of the applicant in terms of the applicable legislation;
 - (b) a document confirming that the applicant's tax affairs are in order;

- (e) a declaration that the applicant warrants to the best of its knowledge and insofar as it is reasonably aware, that it complies with the laws and regulations applicable to it, with its legal obligations pertaining to its business in general and with its obligations as a distributor of content and undertakes to continue to take all reasonable and necessary steps to ensure that such compliance is maintained; and
 - (f) proof of payment of the prescribed fee.
- (9) Registrations, applications, amendments, and related statements of fact required by the FPB must be signed as follows (either electronically or manually) –
- (a) by the applicant, if the applicant is a natural person;
 - (b) by one of the partners, if the applicant or registrant is a partnership;
 - (c) by an employee or director, if the applicant is a juristic person; or
 - (d) where the registration, application, amendment, or related statement of fact is filed on behalf of a government entity, it must be signed by a duly appointed official who is authorised to do so under applicable law.
- (10) The FPB may revoke a licence or permit if at any time any material statement made or information submitted by an applicant is found to be false and to have been made by the applicant or any member or employee thereof, knowing it to be false.
- (11) To provide false information or to withhold relevant information with the intention to mislead the FPB constitutes an offence in terms of section 24D of the Act and may result in the person being liable to a fine or to imprisonment or to both a fine and such imprisonment.

(12) The validity of licences and permits once approved shall be for a period of 5 (five) years unless surrendered as set out in sub-regulation 7 of these Regulations.

3. Prohibitions, offences, penalties, tariffs, and standard terms and conditions.

– (1) Applicants' attention is directed to section 24A of the Act on prohibitions, offences and penalties that may be imposed on anyone contravening these Regulations and the provisions of the Act.

(2) The licence fees associated with applications and registrations are set out in the Films and Publications Tariff's Regulations.

(3) The standard terms and conditions to be applied to licences and permits are set out in Schedule 2 of these Regulations.

(4) Where a Licence Holder or Permit Holder fails to comply with any standard terms and conditions or any specific term or condition of its licence or term or condition applicable to any licence or permit, such Licence Holder or Permit Holder shall be subject to the penalties set out in the Act, where sections 24A, 24B, 24C and 27A (2),(3) and (4) apply to offences and penalties that may be imposed on anyone acting contrary to these regulations and the provisions the Act.

4. Amendment of licences and permits. – (1) Amendments to licenses and permits must be made in accordance with this clause of the Regulations.

(2) The fees set out in the Films and Publications Tariff's Regulations apply to applications to amend licences and permits.

(3) Applications for the amendment of licences and permits must be submitted using the forms, whether in paper format or electronically, which may be accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's

website.

- (4) The application form must be completed in all respects, including the provision of attachments.
- (5) The general provisions of regulation 2 of these Regulations apply to applications to amend licences and permits.

5. Renewal of licences and permits. – (1) Renewal of licences and permits must be made in accordance with this clause of these Regulations.

- (2) Applications for renewal of licenses and permits must be submitted at least 6 (six) months prior to the expiration of the licence and permit term.
- (3) The fees set out in the Films and Publications Tariff's Regulations apply to applications to renew licences and permits.
- (4) Applications for the renewal of licences and permits must be submitted using the forms, whether in paper format or electronically, which may be accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.
- (5) The general provisions of regulation 2 of these Regulations apply to applications for renewals.

6. Transfer of licences and permits, and changes in ownership and control. –

- (1) Applications for transfer of a licence or permit, including transfers of control or ownership must be filed using the forms, whether in paper format or electronically, accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.
- (2) The forms must be completed in all respects, including attachments.

- (3) For the purposes of regulation 6 of these Regulations, use of the term "transfer", includes both transfers of the licence and permit to another person and transfers of controlling interests in a licensee and permit from one person to another.
- (4) An application for the transfer of a licence and permit must be made in writing, by the person to whom the licence and permit will be transferred and the application must –
- (a) provide a motivation as to the reason for the requested transfer;
 - (b) identify the licence and permit including the licence and permit number to be transferred; and
 - (c) identify the applicant.
- (5) If the applicant is a natural person, the following information must be furnished –
- (a) the full name of the applicant;
 - (b) the identity number of the applicant;
 - (c) the nationality of the applicant;
 - (d) the applicant 's permanent physical address;
 - (e) the applicant's principal place of business address;
 - (f) the applicant's telephone and fax numbers; and
 - (g) the applicant's e-mail address and website, if the applicant has one or both.

- (6) Where the applicant is a juristic person, the following information must be furnished –
- (a) the business name and address (including e-mail address and website) the telephone and fax numbers of the applicant, and where applicable, certified copies of all the founding documents of the applicant;
 - (b) full names, business and residential addresses and the telephone numbers of each shareholder or member owning shares interests in the applicant; and
 - (c) affiliated ownership interests of the applicant in other persons holding a licence in terms of the Act.
- (7) The applicant must identify the licensee or permit holder, in the case where the licence and permit is being transferred from one person to another or, in the case of a transfer of control, the identity of the persons transferring control of the licensee or the permit holder to the applicant.
- (8) In the case where the licensee or permit holder has been liquidated, the applicant must identify the liquidator, including all relevant contact details and obtain from the liquidator written consent of the transfer to the applicant.
- (9) In the case of a deceased estate, the executor of the deceased estate must give written consent to the transfer.
- (10) Except in cases involving sub-regulation 6 (8) and (9) of these Regulations, the applicant must include with its registration form an affidavit from the licensee or the permit holder or, in the case of a transfer of control, the controlling shareholders consent to the transfer of the licence or permit to the applicant.

(11) The fees set out in the Films and Publications Tariff's Regulations apply to applications for licences and permits.

(12) The general filing provisions of regulation 2 apply to applications for transfer licences and permits.

7. Surrender of licences and permits. – (1) License and permit holders may surrender their licences and permits in accordance with these Regulations.

(2) Except as provided for in sub-regulation 7 (3) and (4) of these Regulations, a license and permit holder may surrender its licence and permit by filing written notification with the FPB in compliance with sub-regulation 7 (6), (7) and (8) of these Regulations.

(3) Where the surrender of a licence and permit involves the discontinuation of any service, at least sixty (60) days before discontinuation of service and the surrender a licence and permit, the licensee and permit holder shall notify in writing all affected subscribers of the licensee's and permit holder's intention to discontinue the service and surrender its licence and permit.

(4) At a minimum the notice must inform subscribers of the date service will be discontinued, which date may not be less than 30 (thirty) days before the date of the notice.

(5) In addition to notifying subscribers per sub-regulation 7 (3) and (4) of these Regulations, licensees and permit holders intending to discontinue service and surrender their licences and permits, shall post a notice on their website and post a public notice in at least one national newspaper.

(6) To effect the surrender of a licence and permit, the licensee and permit holder shall file with the FPB, written notification of its intention to surrender the licence and permit.

- (7) The notice of surrender of the license and permit must be published in a national newspaper.
- (8) The written notice must be accompanied by a copy of the licence and permit to be surrendered and, where sub-regulation 7 (3) and (4) of these Regulations applies
 - (a) a copy of the notification to subscribers; and
 - (b) a copy of the newspaper publication.
- (9) The licensee and permit holder must include with the notification, full payment of any outstanding monies owed to the FPB, or in cases where no outstanding balance is owed, certification stating that all accounts have been paid.

8. Temporary registration. – (1) The FPB may grant temporary registration to distribute content on a limited basis.

- (2) In addition to any terms and conditions the FPB may impose in the authorisation document, temporary registrations shall be subject to the following terms and conditions –
 - (a) Temporary registrations are granted subject to the condition that they may be cancelled by the FPB at any time upon due notice to the licensee and permit holder; and
 - (b) Temporary registrations are intended to be of limited duration, unless a longer duration is specified by the FPB and shall automatically expire and have no further force or effect 3 (three) months from the effective date.
- (3) A grant of temporary registration does not provide any right to or provide any assurance that the FPB will grant an application for a licence and permit.

9. Compliance. – (1) Failure to comply with any provision of this Regulation constitutes an offence and is subject to the penalties set out in the Act.

(2) In this regard, section 24A of the Act applies to offences and penalties that may be imposed on anyone acting contrary to these Regulations and the provisions of the Act.

SCHEDULE 2

PART 1

REGISTRATION AS DISTRIBUTOR

10. Registration as a distributor. – (1) An application for registration as a distributor of films and games in terms of section 18 (1)(a) of the Act must be filed using the forms, whether in paper format or electronically, accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.

(2) A member of the Press Council of South Africa or a member of the Advertising Regulatory Board, are both exempt from the requirement to register as a distributor in terms of sub-regulation 10 (1) of these Regulations for film content.

(3) Every applicant must include as part of their registration –

(a) proof of registration of the business of the distributor in terms of the applicable legislation;

(b) a document confirming that the applicant's tax affairs are in order;

(c) a declaration that the applicant warrants to the best of its knowledge

and insofar as it is reasonably aware, that it complies with the laws and regulations applicable to it, with its legal obligations pertaining to its business in general and with its obligations as a distributor of films and undertakes to continue to take all reasonable and necessary steps to ensure that such compliance is maintained; and

(d) proof of payment of the prescribed fee.

(4) The registration issued by the FPB may shall be valid for a period of 1 (one) year from the date of issue thereof.

(5) The issuing of a temporary registration shall be valid for a period of not more than 3 (three) months from the date of issue thereof.

(6) The FPB may impose any conditions it considers necessary for the better achievement of the objects and purposes of the Act for the registrations referred to in sub-regulation (4) and (5).

11. Renewal of registration as distributor. – (1) An application for the renewal of a registration certificate as a distributor, including as an online distributor, must be filed using the forms, whether in paper format or electronically, accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.

(2) The application referred to in sub-regulation 11 (1) of these Regulations must be accompanied with the proof of payment of the prescribed fee and either a confirmation that the supporting documents are still valid and accurate, or where there have been any changes to provide copies of the said supporting documentation.

(3) The application for the renewal of a registration certificate as a distributor in terms of sub-regulation 11 (1) of these Regulations must be made

within 60 (sixty) days from the date of expiry of the registration certificate issued by the FPB.

- (4) If an application for the renewal of a registration certificate as distributor is not made within 60 (sixty) days from the date of expiry of that registration certificate, such distributor shall cease to be registered as a distributor of films or games.
- (5) A distributor who has made an application for the renewal of a registration certificate within the 60 (sixty) days from date of expiry of that registration certificate, the registration certificate of such a distributor will be deemed to be of full force and effect until such time as the renewal application has been processed and the outcome of the application has been communicated by the FPB.
- (6) Where a distributor fails to comply with any standard terms and conditions or any specific term or condition of its registration or term or condition applicable to any registration, such distributor shall be subject to the penalties set out in the Act where section 24A applies to offences and penalties that may be imposed on anyone acting contrary to these regulations and the applicable provisions the Act.

12. Standard terms and conditions. (1) [*Classification and Licencing Sub-programme to provide the standard terms and conditions*]

- (2) These standard terms and conditions may be amended from time to time by the FPB in accordance with section 18 of the Act.
- (3) Upon the coming into force of any such amendment, the standard terms and conditions, as amended, shall be binding on all current and future holders of any registration certificate.
- (3) Nothing in these standard terms and conditions shall absolve a distributor

or exempt a distributor from any requirement in law or otherwise to obtain any additional licences or permits as may be necessary for the distribution of content and for the exercise of its rights or discharge of its obligations under the registration certificate issued by the FPB.

- 13. Additional terms and conditions.** – (1) The FPB may impose additional terms and conditions in terms of section 18 of the Act that are consistent with the objects of the Act.
- (2) Additional terms and conditions that apply to individual licences may be specified by the FPB.
- (3) Where the FPB intends to apply additional terms and conditions to a registration certificate, such additional terms and conditions will be published in the Gazette.

PART 2

ACCREDITATION OF A FOREIGN OR INTERNATIONAL CLASSIFICATION SYSTEM

- 14. Accreditation of a Foreign or International Classification System.** – (1) An application for the licence to accredit classification ratings issued by any foreign or international classification authority or body in relation to the classification of publications, where applicable, films or games in terms of section 18D of the Act must be made on the application and registration forms to be used when submitting applications or when registering, together with instructions and information as to the submission of such forms, whether in paper format or electronically, may be accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.
- (2) The application referred to in sub-regulation 14 (1) of these Regulations must

indicate –

- (a) the accessibility by the FPB of the applicant's online service for compliance, monitoring and auditing purposes; and
 - (b) the alignment of the foreign or international ratings to the applicable ratings in terms of the Act and the Classification Guidelines of the FPB.
- (4) On approval of the application, the FPB shall issue the applicant with a Notice of Accreditation of the classification ratings issued by any foreign or international classification authority or body in terms of section 18D of the Act and shall only be valid for 1 (one) year.

15. Renewal of the accreditation of a Foreign or International Classification System.

– (1) An application for the renewal of the accreditation of a foreign or international classification system must be filed using the forms, whether in paper format or electronically, accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.

- (2) The application referred to in sub-regulation 15 (1) of these Regulations must be accompanied with the proof of payment of the prescribed fee and either a confirmation that the supporting documents are still valid and accurate, or where there have been any changes to provide copies of the said supporting documentation.
- (3) The application for the renewal of the accreditation of a foreign or international classification system in terms of sub-regulation 15 (1) of these Regulations must be made within 90 (ninety) days from the date of expiry of the Notice of Accreditation issued by the FPB.
- (4) If an application for the renewal of the accreditation of a foreign or international classification system is not made within 90 (ninety) days from

the date of expiry of that Notice of Accreditation, such accreditation shall cease to be valid.

- (5) A distributor who has made an application for the renewal of the accreditation of a foreign or international classification system within the 90 (ninety) days from date of expiry of the Notice of Accreditation, the Notice of Accreditation will be deemed to be of full force and effect until such time as the renewal application has been processed and the outcome of the application has been communicated by the FPB.

16. Suspension of the accreditation of a Foreign or International Classification System.

– (1) Should the classification ratings issued by any duly approved foreign or international classification authority or body fail to meet all the requirements of sub-regulation 12 (2) of these Regulations and the commercial online distributor fails to remedy any noncompliance within 30 (thirty) days of receipt of written notice from the FPB calling upon it to do so, the accreditation shall be suspended pending the rectification or remedying of such noncompliance.

17. Standard terms and conditions. (1) [Classification and Licencing Sub-programme to provide the standard terms and conditions]

- (2) These standard terms and conditions may be amended from time to time by the FPB in accordance with section 18 of the Act.
- (3) Upon the coming into force of any such amendment, the standard terms and conditions, as amended, shall be binding on all current and future holders of any registration certificate.
- (3) Nothing in these standard terms and conditions shall absolve a distributor or exempt a distributor from any requirement in law or otherwise to obtain any additional licences or permits as may be necessary for the distribution of content and for the exercise of its rights or discharge of its obligations under the registration certificate issued by the FPB.

18. Additional terms and conditions. – (1) The FPB may impose additional terms and conditions in terms of section 18 of the Act that are consistent with the objects of the Act.
- (2) Additional terms and conditions that apply to individual licences may be specified by the FPB.
- (3) Where the FPB intends to apply additional terms and conditions to a registration certificate, such additional terms and conditions will be published in the Gazette.

PART 3

PROCEDURES FOR APPLICATION FOR SELF-CLASSIFICATION OF FILMS, GAMES AND PUBLICATIONS

19. **Procedure for application for self-classification of films, games and publications.** – (1) An application for the annual Permit to conduct classifications of publications, where applicable, films or games, in terms of section 18C of the Act must be made on the application and registration forms to be used when submitting applications or when registering, together with instructions and information as to the submission of such forms, whether in paper format or electronically, may be accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.
- (2) The application referred to in sub-regulation 19 (1) of these Regulations must include –
- (a) proof of registration of the business of the applicant in terms of the applicable legislation;
- (b) a document confirming that the applicant's tax affairs are in order;

- (c) a declaration that the applicant warrants to the best of its knowledge and insofar as it is reasonably aware, that it complies with the laws and regulations applicable to it, with its legal obligations pertaining to its business in general and with its obligations as a distributor of films or games and undertakes to continue to take all reasonable and necessary steps to ensure that such compliance is maintained; and
 - (d) proof of payment of the prescribed fee.
- (3) The applicant must ensure that it commits to undertake self-classification of publications, where applicable, films or games distributed by it on its own online distribution platform in accordance with the Act, the Films and Publications Regulations, 2022, and the Classification Guidelines of the FPB.
- (4) The commercial online distributor must inform the FPB within 7 (seven) days after the Permit has been issued of its “XX” and “X18” classifications of publications, films or games to enable the FPB to publish these classifications in the Government Gazette, after which such classifications are deemed to have been made by the FPB.
- (5) Should any of the publications, films or games after due inquiry be in conflict with, or the commercial online distributor not classify publications, films or games in accordance with the Act, these Regulations and the Classification Guidelines of the FPB and the commercial online distributor fails to remedy any noncompliance within 30 (thirty) days of receipt of written notice from the FPB calling upon it to do so, the Permit shall be suspended pending the rectification or remedying of such noncompliance by the commercial online distributor.
- (6) Until such time that the application contemplated in sub-regulation 19 (1) of these Regulations is approved by the FPB, the applicant must submit any

publication, where applicable, film or game which is to be distributed by it on its own online distribution platform to the FPB together with the relevant Form provided by the FPB, and the prescribed fee, for examination and classification before it may be distributed within the Republic.

20. Renewal of the annual Permit to self-classify films, games and publications.

– (1) An application for the renewal of the annual Permit to conduct classifications of publications, where applicable, films or games must be filed using the forms, whether in paper format or electronically, accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.

(2) The application referred to in sub-regulation 20 (1) of these Regulations must be accompanied with the proof of payment of the prescribed fee and either a confirmation that the supporting documents are still valid and accurate, or where there have been any changes to provide copies of the said supporting documentation.

(3) The application for the renewal of the annual Permit to conduct classifications of publications, where applicable, films or games, in terms of sub-regulation 20 (1) of these Regulations must be made within 90 (ninety) days from the date of expiry of the annual Permit issued by the FPB.

(4) If an application for the renewal of the annual Permit to conduct classifications of publications, where applicable, films or games is not made within 90 (ninety) days from the date of expiry of that annual Permit, such annual Permit shall cease to be valid.

(5) A distributor who has made an application for the renewal of the annual Permit to conduct classifications of publications, where applicable, films or games within the 90 (ninety) days from date of expiry of the annual Permit, the Annual Permit will be deemed to be of full force and effect until such time as the renewal application has been processed and the outcome of the

application has been communicated by the FPB.

21. Suspension of the annual Permit to conduct classifications of publications, where applicable, films or games. – (1) Should the classification ratings issued by a commercial online distributor in terms of the annual Permit issued fail to meet all the requirements of sub-regulation 19 (3) of these Regulations and the commercial online distributor fails to remedy any noncompliance within 30 (thirty) days of receipt of written notice from the FPB calling upon it to do so, the annual Permit shall be suspended pending the rectification or remedying of such noncompliance.

22. Standard terms and conditions. (1) [*Classification and Licencing Sub-programme to provide the standard terms and conditions*]

(2) These standard terms and conditions may be amended from time to time by the FPB in accordance with section 18 of the Act.

(3) Upon the coming into force of any such amendment, the standard terms and conditions, as amended, shall be binding on all current and future holders of any registration certificate.

(3) Nothing in these standard terms and conditions shall absolve a distributor or exempt a distributor from any requirement in law or otherwise to obtain any additional licences or permits as may be necessary for the distribution of content and for the exercise of its rights or discharge of its obligations under the registration certificate issued by the FPB.

23. Additional terms and conditions. – (1) The FPB may impose additional terms and conditions in terms of section 18 of the Act that are consistent with the objects of the Act.

(2) Additional terms and conditions that apply to individual licences may be specified by the FPB.

- (3) Where the FPB intends to apply additional terms and conditions to a registration certificate, such additional terms and conditions will be published in the Gazette.

PART 4

EXEMPTION APPLICATIONS

- 24. Application to be exempted from the Act in respect of certain publications, films and games.** – (1) An application to be exempted from section 24A, 24B or 24C of the Act in terms of section 22 of the Act must be made on the application and registration forms to be used when submitting applications or when registering, together with instructions and information as to the submission of such forms, whether in paper format or electronically, may be accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.
- 25. Standard terms and conditions.** (1) [*Classification and Licencing Sub-programme to provide the standard terms and conditions*]
 - (2) These standard terms and conditions may be amended from time to time by the FPB in accordance with section 18 of the Act.
 - (3) Upon the coming into force of any such amendment, the standard terms and conditions, as amended, shall be binding on all current and future holders of any registration certificate.
 - (3) Nothing in these standard terms and conditions shall absolve a distributor or exempt a distributor from any requirement in law or otherwise to obtain any additional licences or permits as may be necessary for the distribution of content and for the exercise of its rights or discharge of its obligations under the registration certificate issued by the FPB.

- 26. Additional terms and conditions.** – (1) The FPB may impose additional terms and conditions in terms of section 18 of the Act that are consistent with the objects of the Act.
- (2) Additional terms and conditions that apply to individual licences may be specified by the FPB.
- (3) Where the FPB intends to apply additional terms and conditions to a registration certificate, such additional terms and conditions will be published in the Gazette.

PART 5

ADULT PREMISES

- 27. Application for exemption to distribute films, games and publications classified as "X18" at a physical premises.** – (1) An application to be for an exemption to exhibit or distribute a publication, film or game classified as "X18" in terms of section 24 (1) of the Act at a physical premises must be made on the application and registration forms to be used when submitting applications or when registering, together with instructions and information as to the submission of such forms, whether in paper format or electronically, may be accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.
- (2) The application referred to in sub-regulation 27 (1) of these Regulations must include –
- (a) a licence to conduct the business of adult premises, issued by a licensing authority in terms of the Businesses Act, 1991 (Act No. 71 of 1991);

- (b) proof of registration of the business of the applicant in terms of the applicable legislation;
 - (c) a document confirming that the applicant's tax affairs are in order;
 - (d) a declaration that the applicant warrants to the best of its knowledge and insofar as it is reasonably aware, that it complies with the laws and regulations applicable to it, with its legal obligations pertaining to its business in general and undertakes to continue to take all reasonable and necessary steps to ensure that such compliance is maintained;
 - (e) proof of payment of the prescribed fee;
 - (f) an illustration in the form of a photograph, of the prominent display at all entrances of the premises, prohibiting the entry of persons under the age of 18 (eighteen) years; and
 - (g) an explanation indicating how the business shall ensure that children under the age of 18 (eighteen) would not be able to access the premises.
- (2) On approval of the application, the FPB shall issue the applicant with a licence in terms of section 24 (1) of the Act and shall only be valid for 1 (one) year.

28. Renewal of the licence to conduct the business of an adult premises. – (1)

An application for the renewal of the licence to conduct the business of an adult premises must be filed using the forms, whether in paper format or electronically, accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.

- (2) The application referred to in sub-regulation 28 (1) of these Regulations must

be accompanied with the proof of payment of the prescribed fee and either a confirmation that the supporting documents are still valid and accurate, or where there have been any changes to provide copies of the said supporting documentation.

- (3) The application for the renewal of the licence in terms of sub-regulation 28 (1) of these Regulations must be made within 90 (ninety) days from the date of expiry of the licence issued by the FPB.
- (4) If an application for the renewal of the licence is not made within 90 (ninety) days from the date of expiry of that licence, such licence shall cease to be valid.

29. Suspension of the licence to conduct the business of an adult premises. –

(1) Should the holder of the licence issued by the FPB fails to meet all the requirements of section 24 (2) of the Act, the licence shall be suspended pending the rectification or remedying of such noncompliance.

30. Standard terms and conditions. (1) [*Classification and Licencing Sub-programme to provide the standard terms and conditions*]

- (2) These standard terms and conditions may be amended from time to time by the FPB in accordance with section 18 of the Act.
- (3) Upon the coming into force of any such amendment, the standard terms and conditions, as amended, shall be binding on all current and future holders of any registration certificate.
- (3) Nothing in these standard terms and conditions shall absolve a distributor or exempt a distributor from any requirement in law or otherwise to obtain any additional licences or permits as may be necessary for the distribution of content and for the exercise of its rights or discharge of its obligations under the registration certificate issued by the FPB.

31. Additional terms and conditions. – (1) The FPB may impose additional terms and conditions in terms of section 18 of the Act that are consistent with the objects of the Act.

(2) Additional terms and conditions that apply to individual licences may be specified by the FPB.

(3) Where the FPB intends to apply additional terms and conditions to a registration certificate, such additional terms and conditions will be published in the Gazette.

PART 6

DISTRIBUTION OF FILMS OR GAMES CLASSIFIED AS “X18” ONLINE

32. Application for exemption to distribute publications, films and games classified as "X18" online. – (1) An application to be for an exemption by a registered film or game distributor to distribute a film or game classified as “X18” online in terms of section 24 (3) of the Act must be made on the application and registration forms to be used when submitting applications or when registering, together with instructions and information as to the submission of such forms, whether in paper format or electronically, may be accessed from the FPB’s offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB’s website.

(2) The application referred to in sub-regulation 32 (1) of these Regulations must include –

(a) proof of registration of the business of the applicant in terms of the applicable legislation;

- (b) a document confirming that the applicant's tax affairs are in order;
 - (c) a declaration that the applicant warrants to the best of its knowledge and insofar as it is reasonably aware, that it complies with the laws and regulations applicable to it, with its legal obligations pertaining to its business in general and undertakes to continue to take all reasonable and necessary steps to ensure that such compliance is maintained; and
 - (d) proof of payment of the prescribed fee.
- (3) The application referred to in sub-regulation 32 (1) of these Regulations must indicate how the distributor shall ensure –
- (a) that children under the age of 18 (eighteen) would not be able to access a film or game classified as “X18” online or any promotion of such a film or game;
 - (b) that the classification and age restriction are clearly displayed on the screen of the user throughout the screening;
 - (c) that the user has confirmed that he or she is 18 (eighteen) years or older prior to commencing viewing of the film, playing the game or viewing the promotion of the film or game;
 - (d) that it shall not distribute any promotion of the film or game to be accessed without it being paid for by way of a credit card or another child secure method agreed to by the FPB; and
 - (e) the keeping of a register, solely for the distributor’s private records and kept for 1 (one) year from the date on which distribution took place, indicating –

(i) all instances where access was granted to a user; and

(ii) the user's name, address and verified age.

(4) On approval of the application, the FPB must issue the applicant with a Notice of Exemption in terms of section 24 (3) of the Act.

33. Renewal of the licence to distribute publications, films and games classified as "X18" online.

– (1) An application for the renewal of the licence to distribute publications, films and games classified as "X18" online must be filed using the forms, whether in paper format or electronically, accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.

(2) The application referred to in sub-regulation 33 (1) of these Regulations must be accompanied with the proof of payment of the prescribed fee and either a confirmation that the supporting documents are still valid and accurate, or where there have been any changes to provide copies of the said supporting documentation.

(3) The application for the renewal of the licence in terms of sub-regulation 33 (1) of these Regulations must be made within 90 (ninety) days from the date of expiry of the licence issued by the FPB.

(4) If an application for the renewal of the licence is not made within 90 (ninety) days from the date of expiry of that licence, such licence shall cease to be valid.

34. Suspension of the licence to distribute publications, films and games classified as "X18" online. – (1) Should the holder of the licence issued by the FPB fails to meet all the requirements of section 24 (3) of the Act, the licence shall be suspended pending the rectification or remedying of such noncompliance.

35. Standard terms and conditions. (1) [*Classification and Licencing Sub-programme to provide the standard terms and conditions*]

- (2) These standard terms and conditions may be amended from time to time by the FPB in accordance with section 18 of the Act.
- (3) Upon the coming into force of any such amendment, the standard terms and conditions, as amended, shall be binding on all current and future holders of any registration certificate.
- (3) Nothing in these standard terms and conditions shall absolve a distributor or exempt a distributor from any requirement in law or otherwise to obtain any additional licences or permits as may be necessary for the distribution of content and for the exercise of its rights or discharge of its obligations under the registration certificate issued by the FPB.

36. Additional terms and conditions. – (1) The FPB may impose additional terms and conditions in terms of section 18 of the Act that are consistent with the objects of the Act.

- (2) Additional terms and conditions that apply to individual licences may be specified by the FPB.
- (3) Where the FPB intends to apply additional terms and conditions to a registration certificate, such additional terms and conditions will be published in the Gazette.

PART 7

INTERNET SERVICE PROVIDERS

37. Internet Service Providers. – (1) An application for registration as an internet service provider in terms of section 27A of the Act must be made on the

application and registration forms to be used when submitting applications or when registering, together with instructions and information as to the submission of such forms, whether in paper format or electronically, may be accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.

- (2) The application referred to in sub-regulation 37 (1) of these Regulations must include –
 - (a) proof of registration of the business of the applicant in terms of the applicable legislation;
 - (b) a document confirming that the applicant's tax affairs are in order; and
 - (c) a declaration that the applicant warrants to the best of its knowledge and insofar as it is reasonably aware, that it complies with the laws and regulations applicable to it, with its legal obligations pertaining to its business in general and undertakes to continue to take all reasonable and necessary steps to ensure that such compliance is maintained.
- (3) Every internet service provider must, when making an application for registration as an internet service provider, indicate in the application form:
 - (a) all measures, or steps taken or put in place to ensure that children are not exposed to child pornography and pornography; and
 - (b) that their services are being used for the hosting and distribution child pornography, propaganda for war, incitement of imminent violence or advocacy of hatred based on an identifiable group characteristic and that constitutes incitement to cause harm.

38. Renewal of the registration as an internet service provider. – (1) An

application for the renewal of the registration as an internet service provider in terms of section 27A of the Act must be filed using the forms, whether in paper format or electronically, accessed from the FPB's offices on Monday to Friday, excluding public holidays, from 9h00 to 16h00 or obtained electronically from the FPB's website.

- (2) The application referred to in sub-regulation 38 (1) of these Regulations must be accompanied with the proof of payment of the prescribed fee and either a confirmation that the supporting documents are still valid and accurate, or where there have been any changes to provide copies of the said supporting documentation.
- (3) The application for the renewal of the registration in terms of sub-regulation 39 (1) of these Regulations must be made within 90 (ninety) days from the date of expiry of the registration issued by the FPB.
- (4) If an application for the renewal of the registration is not made within 90 (ninety) days from the date of expiry of that registration, such registration shall cease to be valid.

40. Suspension of the registration as an internet service provider. – (1) Should the holder of the registration issued by the FPB fails to meet all the requirements of section 24C (2) and 27A (2) of the Act, the registration shall be suspended pending the rectification or remedying of such noncompliance.

41. Standard terms and conditions. (1) [*Classification and Licencing Sub-programme to provide the standard terms and conditions*]

- (2) These standard terms and conditions may be amended from time to time by the FPB in accordance with section 18 of the Act.
- (3) Upon the coming into force of any such amendment, the standard terms and conditions, as amended, shall be binding on all current and future

holders of any registration certificate.

- (3) Nothing in these standard terms and conditions shall absolve a distributor or exempt a distributor from any requirement in law or otherwise to obtain any additional licences or permits as may be necessary for the distribution of content and for the exercise of its rights or discharge of its obligations under the registration certificate issued by the FPB.

42. Additional terms and conditions. – (1) The FPB may impose additional terms and conditions in terms of section 18 of the Act that are consistent with the objects of the Act.

- (2) Additional terms and conditions that apply to individual licences may be specified by the FPB.
- (3) Where the FPB intends to apply additional terms and conditions to a registration certificate, such additional terms and conditions will be published in the Gazette.

SCHEDULE 3

TRANSITIONAL ARRANGEMENTS

43. Continuation of pre-existing online distribution agreements. – (1) As of the general effective date of these Regulations, every pre-existing online distribution agreement that was, immediately before that date, entered into in terms of section 22 of the Act, continues to exist for a period of 6 (six) months after which a commercial online distributor would need to ensure compliance with the applicable standard terms and conditions or special terms and conditions as required in terms of these Regulations.

- (2) An application that, before the effective date, had been filed in accordance with the Films and Publications Regulations, 2022 must be regarded as

having been satisfactorily filed for any comparable purpose of these Regulations, subject to the amendment of such applications in order to meet the requirements of these Regulations.

SHORT TITLE

- 44. Short title.** – These Regulations are called the Regulations on the Processes and Procedures for Applying or Registering, Amending, Transferring and Renewing Licences and Terms and Conditions to be applied to such Licences in terms of the Films and Publications Act, 1996 (act no. 65 of 1996), as amended, 2022.

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