

THIRD SESSION

THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

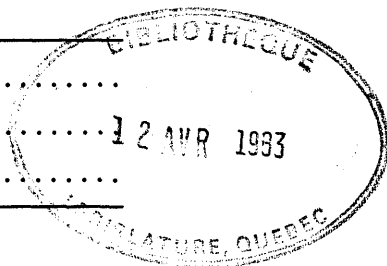
Bill 109

An Act respecting the cinema and video industry

First reading

Second reading

Third reading



M. CLÉMENT RICHARD

Minister of Cultural Affairs

QUÉBEC OFFICIAL PUBLISHER

1982

EXPLANATORY NOTES

The object of this bill is to promote and supervise the Québec film and video industry.

It provides that the Minister of Cultural Affairs will be responsible for devising a policy on the film and video industry in Québec and for proposing it to the Government.

It also provides that the Minister will have the power to grant recognition to film and video libraries and to give certain responsibilities to them relating to the existing stock of film and video works.

The Institut québécois du cinéma et de la vidéo and the Société générale du cinéma et de la vidéo will replace the Institut québécois du cinéma.

The role of the Institut will be to provide advice to the Minister on devising and implementing policy on the film and video industry, and to determine the objectives of the Société générale du cinéma et de la vidéo. The latter body will be responsible for distributing the funds allocated by the Government to the private sector of the film and video industry.

The Régie du cinéma et de la vidéo will replace the Cinema Supervisory Board, and its functions will be, in particular, to classify films and trailers, to issue, renew, suspend or revoke exhibitor's licences and distributor's licences, to issue producer's and filming licences, and, lastly, to supervise and control the sale, lease, lending or exchange of video material.

The bill also provides that the Régie du cinéma et de la vidéo will be required to hold public hearings every two years on matters within its competence.

Lastly, it will authorize appeal from decisions of the Régie, except regarding the classification of films and trailers.

ACTS AMENDED BY THIS BILL

- The Act respecting the Ministère des Affaires culturelles (R.S.Q., chapter M-20)
- The Licenses Act (R.S.Q., chapter L-3)
- The Act respecting the Société québécoise de développement des industries culturelles (R.S.Q., chapter S-18.3) now replaced by the Act respecting the Société de développement des industries de la culture et des communications (1982, chapter 14)
- The Moving Pictures Act (R.S.Q., 1964, chapter 55)
- The Act respecting the cinema (R.S.Q., chapter C-18).

Bill 109

An Act respecting the cinema and video industry

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

CHAPTER I

DEFINITIONS

- 1.** In this Act, unless the context indicates otherwise,
- “film” means a work produced by a technical means that results in a cinematographic effect, regardless of the medium employed;
- “video material” includes video cassettes, video discs or any medium of the same nature on which a film is recorded.

CHAPTER II

DEVELOPMENT OF THE CINEMA AND VIDEO INDUSTRY

DIVISION I

POLICY ON THE CINEMA AND VIDEO INDUSTRY

- 2.** The Minister of Cultural Affairs shall devise policy on the cinema and video industry, propose it to the Government and supervise its application.
- 3.** Policy on the cinema and video industry, while respecting freedom of creation and expression, and freedom of choice for the public, must give priority to the following objectives:
- (1) the establishment and development of the artistic, industrial and commercial infrastructure of the cinema and video industry;

(2) the development of a Québec cinema and the spread of cinematographic culture to all parts of Québec;

(3) the development of independent and financially autonomous Québec firms in the field of cinema and video;

(4) the conservation and utilization of the existing stock of cinematographic and video works;

(5) the respect of the right of artistic property over films and the establishment of mechanisms to oversee the production, exhibition and distribution of such works.

DIVISION II

THE FILM LIBRARY AND THE VIDEO LIBRARY

4. The Minister, on such conditions as he may fix, may grant recognition to a film library or a video library and confer on it functions in respect of the conservation of the existing stock of cinematographic or video works and the distribution of the cinematographic or video repertoire.

5. The recognized film library or video library shall carry out the functions conferred on it by the Minister under the terms of a contract entered into with the Minister.

6. The recognized film library or video library may, provided that it pays for it, require the owner of a film produced in Québec and exhibited to the public to deposit a print of the film in the film library or video library, as the case may be.

The owner must make the deposit within the time limit and according to the modalities determined by regulation of the Government.

The print deposited must conform to the standards of quality determined by regulation of the Government.

DIVISION III

FINANCIAL ASSISTANCE

7. Financial assistance may be granted to the private sector of the cinema and video industry by the Société générale du cinéma et de la vidéo out of the funds annually allocated by the Government to that sector, and according to the assistance plan, programs and standards established in accordance with this Act.

8. Financial assistance may be in the form of

- (1) investment in a production, in return for a share of the profits;
- (2) loans or advances with interest at a rate equal to or higher than the current market rate;
- (3) loans or advances without interest or at a lower rate than the current market rate, in the cases determined by regulation of the Government;
- (4) guarantees to lenders or investors, directly or indirectly, particularly through investment companies;
- (5) premiums for high quality and achievement;
- (6) subsidies, including deficit-reducing subsidies, in the cases determined by regulation of the Government;
- (7) subsidies for promotion and representation of the Québec cinéma;
- (8) financial participation in festivals and other cinematographic events;
- (9) reinvestment by recipients of financial assistance of their profits from the sums advanced by the Société;
- (10) any other measure authorized by the Government.

9. The Société générale du cinéma et de la vidéo must send each year to the Institut québécois du cinéma et de la vidéo, not later than the date fixed by the latter, the assistance plan it proposes for the following fiscal year.

10. The Institut québécois du cinéma et de la vidéo, after consultation with the Société générale du cinéma et de la vidéo, shall determine the assistance plan and send it to the Minister for approval not later than the date prescribed by the latter.

11. The Minister, after consultation with the Institut québécois du cinéma et de la vidéo, shall approve the assistance plan. He may also modify it when granting his approval.

12. Following the approval of the assistance plan, the Minister shall send to the Société générale du cinéma et de la vidéo the sums allocated by the Government to the private sector of the cinéma industry.

DIVISION IV

THE INSTITUT QUÉBÉCOIS DU CINÉMA
ET DE LA VIDÉO§ 1.—*Establishment and organization*

13. A body is hereby established under the name of the “Institut québécois du cinéma et de la vidéo”.

14. The Institut is a corporation within the meaning of the Civil Code and has the powers of such a corporation in addition to the powers conferred on it by this Act.

15. The affairs of the Institut shall be administered by a board of directors composed of twelve members appointed by the Government in accordance with this division.

16. The Minister shall recognize at least one representative association for each of the following groups of the private sector of the cinema industry:

- (1) the directors;
- (2) the producers;
- (3) the artists;
- (4) the distributors;
- (5) the exhibitors;
- (6) the actors;
- (7) the authors and composers;
- (8) the technical suppliers.

The Minister shall, in writing, request each of the recognized associations to submit to him, within thirty days, the names of three representative candidates from its group.

17. The Minister shall select, from among the persons whose names are submitted to him and for each group, the person whose appointment he recommends to the Government, including the person among them whom he recommends as chairman.

If an association fails to submit the names of the persons it proposes for its group within the prescribed time and the association is the only association recognized for the group, or if a particular

group has no recognized representative association, the Minister shall himself choose the person he considers representative of the group concerned and recommend his appointment to the Government.

18. The Minister shall propose the appointment of four other members to the Government.

19. The members of the Institut must be domiciled in Québec.

20. The members of the Institut are appointed for not over three years. In no case may a member be appointed for more than two consecutive terms of office.

21. The members remain in office at the expiry of their term until they are replaced or reappointed.

22. Every vacancy among the members of the board of directors of the Institut is filled in accordance with the formalities prescribed for the appointment of the member to be replaced.

23. The Minister may, for the purpose of an appointment, ascertain the representative character of an association recognized by him pursuant to section 16.

24. The members of the Institut are not remunerated. However, to the extent provided by regulation of the Government and on presentation of vouchers, they are entitled to the reimbursement of reasonable expenses they incur in the performance of their duties and to an attendance allowance.

25. The chairman is responsible for the management of the Institut and for the direction of its personnel.

26. The members of the Institut shall elect a vice-chairman from among their number. If the chairman is absent or temporarily unable to act, the vice-chairman shall perform the functions of the chairman.

27. The Institut has its corporate seat in the territory of the Communauté urbaine de Montréal; notice of the address of the corporate seat or of any transfer of the corporate seat shall be published in the *Gazette officielle du Québec*.

The Institut may hold its sittings anywhere in Québec.

28. Seven members are a quorum at sittings of the Institut.

29. The members of the Institut shall appoint a secretary who shall devote all his time to the duties of his office. The office of secretary is incompatible with that of member of the Institut.

30. The chairman or the secretary shall transmit the notice and the minutes of every meeting of the members of the Institut to the Minister.

31. The minutes of the sittings of the board of directors of the Institut, if approved by the board and certified true by the chairman, the vice-chairman or the secretary, are authentic. The same applies to documents or copies emanating from the Institut or forming part of its records, if so certified.

32. The Institut shall determine by regulation the remuneration and allowances to which the secretary and the other members of its personnel are entitled, and shall do so in such a way that their remuneration equals what they would receive in the same office if they were appointed and remunerated pursuant to the Civil Service Act (R.S.Q., chapter F-3.1).

The regulation may also determine the other conditions of employment to which the secretary and other members of the personnel are entitled.

The regulation comes into force from the date of its approval by the Government.

§ 2.—*Functions and powers*

33. The functions of the Institut are to advise the Minister on the devising and administration of the policy on the cinema and video industry, to implement the policy and to coordinate its application.

34. Within the scope of the policy on the cinema and video industry, the Institut shall also

(1) determine the objectives of the Société générale du cinéma et de la vidéo while respecting the functions conferred on it;

(2) determine the assistance plan and approve the programs of the Société générale du cinéma et de la vidéo in accordance with this Act;

(3) conduct research and studies in the field of cinema and video;

(4) cooperate with the Government, the Régie du cinéma et de la vidéo and any other person in view of establishing technical standards respecting the cinema and video industry.

35. The Institut shall carry out its functions pursuant to a contract made with the Minister.

The contract shall determine the objectives that must be pursued by the Institut for the duration of the contract, and the modalities governing the carrying out of its functions.

36. The Institut shall give its opinion to the Minister on any matter he may submit to it and may make recommendations to the Minister on any matter relating to policy on the cinema and video industry.

37. The Institut is responsible, for the purposes of the granting of financial assistance and as the need arises, for establishing standards for the recognition of cinematographic works as Québec films. The standards shall be established by regulation of the Institut after consultation with the Société générale du cinéma et de la vidéo.

Every draft regulation shall be published by the Institut in the *Gazette officielle du Québec*, with a notice that at the expiry of not less than thirty days after such publication, it will be submitted to the Government for approval.

The regulation must then be submitted for approval to the Government, which may then amend it. It comes into force, following approval by the Government, from its publication in the *Gazette officielle du Québec* or on any later date indicated in the regulation.

38. The Institut may adopt internal management by-laws.

The by-laws come into force from the date of their approval by the Government.

§ 3.—*Accounts and reports*

39. The fiscal year of the Institut ends on 31 March each year.

40. The Institut must, not later than 30 July each year, file its financial statements and those of the Société générale du cinéma et de la vidéo with the Minister together with a report of its activities and those of the Société for the preceding fiscal year.

The financial statements and the report of activities must contain all the information required by the Minister.

41. The Minister shall table the reports of activities and the financial statements of the Institut and of the Société before the National Assembly of Québec within thirty days of receiving them, if it is in session, or, if the Assembly is not sitting, within thirty days of the next session or resumption, as the case may be.

42. The Institut must also furnish to the Minister all the information he may require on its activities or on those of the Société.

43. The books and accounts of the Institut shall be audited every year by the Auditor General and also whenever so ordered by the Government.

44. The auditor's reports must accompany the reports of activities and the financial statements of the Institut and of the Société.

DIVISION V

THE SOCIÉTÉ GÉNÉRALE DU CINÉMA ET DE LA VIDÉO

§ 1.—*Establishment and organization*

45. A body is hereby established under the name of the "Société générale du cinéma et de la vidéo".

46. The Société is a corporation within the meaning of the Civil Code and has all the powers of such a corporation in addition to those conferred on it by this Act. It shall not, however, invest any sum held for the account of third persons except deposits in a bank, trust company or savings and credit union, nor make any investment through the purchase of capital shares of an undertaking.

47. The affairs of the Société shall be administered by a board of directors composed of five members, including a chairman appointed by the Government on the recommendation of the Minister.

48. The members of the board of directors of the Société must be domiciled in Québec.

49. No member of the board of directors of the Société may, under pain of forfeiture of office, have any direct or indirect interest in an undertaking putting his own interest in conflict with his duties of office.

However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided that he renounces or disposes of it with all possible dispatch.

50. The chairman of the board of directors of the Société is appointed for a term of not over five years, and the other members for a term of not over three years.

In no case may a member of the board of directors be appointed for more than two consecutive terms. At the expiry of their terms, the members remain in office until they are replaced or reappointed.

51. Every vacancy among the members of the board of directors of the Société is filled in accordance with the formalities prescribed for the appointment of the member to be replaced.

52. If a member of the board of directors or the chairman and director general is absent or temporarily unable to act, the Government may appoint a person for the interim.

53. The members of the Société are not remunerated. They are, however, to the extent provided by regulation of the Government and on presentation of vouchers, entitled to the reimbursement of reasonable expenses they incur in the performance of their duties and to an attendance allowance.

54. The chairman of the Société is its director general. He must devote his time exclusively to the work of the Société and the duties of his office.

The Government shall fix the remuneration, social benefits and other conditions of employment to which the chairman of the Société is entitled in his capacity as director general.

55. The chairman and director general of the Société is responsible for the administration of the Société and for the direction of its personnel.

56. Three members are a quorum at sittings of the Société.

In case of a tie-vote, the chairman has a casting vote.

57. The Société has its corporate seat in the territory of the Communauté urbaine de Montréal; notice of the address of the corporate seat or of any transfer of the corporate seat shall be published in the *Gazette officielle du Québec*.

The Société may hold its sittings anywhere in Québec.

58. The chairman shall transmit the notice and the minutes of every meeting of the members of the Société to the Minister and to the Institut.

59. The minutes of the sittings of the board of directors of the Société, if approved by the board and certified true by the chairman or by any person authorized to do so by the internal by-laws of the Société, are authentic. The same applies to documents or copies emanating from the Société or forming part of its records, if so certified.

60. The Société shall determine by regulation the remuneration and allowances to which the members of its personnel are entitled, and shall do so in such a way that their remuneration equals what they would receive in the same office if they were appointed and remunerated pursuant to the Civil Service Act.

The regulation may also determine the other conditions of employment to which the secretary and the other members of the personnel are entitled.

The regulation comes into force from the date of its approval by the Government.

§ 2.—*Functions and powers*

61. Within the scope of the objectives determined by the Institut, the functions of the Société are

(1) to recognize such works as it may indicate as Québec films in accordance with the standards established by the Institut pursuant to section 37;

(2) to promote and provide financial assistance for cinematographic creation and the production of films recognized as Québec films;

(3) to promote or financially assist the Québec cinema by fostering its participation in film festivals and other cinematographic events and promote cinematographic culture in Québec;

(4) to encourage or financially assist training, research and innovation in the field of cinema and video.

In exercising its functions, the Société shall transmit every year to the Institut, not later than the date prescribed by the Institut, the assistance plan and the programs it proposes for the next fiscal year.

62. The Société shall manage the funds that the Government allocates to the private sector of the cinema and video industry in conformity with the assistance plans and programs, and shall grant financial assistance in any of the forms provided for in section 8.

63. The Société may, according to law, enter into agreements with any government and any department or agency of any government, to facilitate the exercise of its functions.

64. The Société may, for the purpose of implementing programs, prescribe, by regulation,

(1) the form of applications for financial assistance presented to it, the information they must contain and the documents which must accompany them;

(2) rules governing the appointment of juries that are to be responsible, on such conditions as it may determine, for awarding prizes and other benefits that the Société is authorized to grant, or make recommendations in that respect;

(3) scales, criteria and limits to be complied with by the Société in granting financial assistance.

The regulation must be published in the *Gazette officielle du Québec*. It comes into force on the date of its publication or on any later date indicated therein.

65. The Société may adopt internal management by-laws.

The by-laws come into force from the date of their approval by the Government.

§ 3.—*Accounts and reports*

66. The fiscal year of the Société ends on 31 March each year.

67. Not later than on 31 May each year, the Société must file its financial statements with the Institut together with a report of its activities for the preceding fiscal year.

The financial statements and the report of activities must contain all the information required by the Institut.

68. The Société must also furnish to the Institut all the information the latter may require on its activities.

69. The books and accounts of the Société shall be audited by the Auditor General every year and also whenever so ordered by the Government.

DIVISION VI

REGULATIONS

70. The Government may, by regulation,

(1) determine for the purposes of the application of section 6, the time, standards and modalities of filing;

(2) determine in what cases the financial assistance granted by the Société may take the form provided for in paragraphs 3 and 6 of section 8;

(3) determine the standards and scales governing the reimbursement of expenses or the attendance allowances provided for in sections 24 and 53 and fix their amounts.

71. Every draft regulation prepared pursuant to paragraphs 1 and 2 of section 70 is published by the Minister in the *Gazette officielle du Québec* with a notice that at the expiry of not less than thirty days after publication, the regulation will be submitted to the Government for adoption.

72. Every regulation made pursuant to section 70 comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date indicated by the regulation.

CHAPTER III

CONTROL AND SUPERVISION OF THE CINEMA AND VIDEO INDUSTRY

DIVISION I

CLASSIFICATION OF FILMS AND TRAILERS

§ 1.—*Classification of films*

73. No person may exhibit a film to the public unless the print of the film has been stamped, in accordance with this Act, to show the classification assigned to the film.

The same rule applies to a film that has been altered after its classification.

74. An application for classification must be made in accordance with the regulations of the Régie.

75. A person applying for classification must file with the Régie, together with his application, the distribution contract for the film or the authorization enabling him to exhibit the film to the public in Québec.

76. A person applying to have a film classified must submit it in its complete form, with no alterations but those expressly authorized in writing by the person empowered to give the authorization.

77. Within fifteen days following the application, the Régie, if of the opinion that the content of the film does not endanger public

order or good morals, in particular, that it does not condone nor promote sexual violence, shall assign one of the three following classes to the film, according to the sector of the audience to which it is directed:

- (1) "For all";
- (2) "14 and over";
- (3) "18 and over".

78. The Régie shall stamp every print of every film that it classifies and that is intended for exhibition to the public to show the classification assigned to the film.

79. With a view to promoting the simultaneous exhibition to the public of versions of films produced in a language other than French having French subtitles or French dubbing, the Régie may stamp such versions only on the condition that,

(1) if a version other than the French version is exhibited with a print having French subtitles or French dubbing, the Régie stamp at least as many prints with French subtitles or French dubbing as there are prints in a version other than the French version;

(2) if only one version other than the French version is exhibited and if the person applying for a stamp files a contract with the Régie ensuring that, within such period as the Régie considers reasonable, the French dubbing of the film in Québec and the proof of the delivery of the elements of dubbing to the person responsible therefor, the Régie stamp the prints exhibited in a version other than the French version;

(3) if only one version other than the French version is exhibited and if the person applying for a stamp proves, to the satisfaction of the Régie, that there is no version with French subtitles or French dubbing available at the time the application is filed, the Régie affix a provisional stamp on the prints exhibited in a version other than the French version. The provisional stamp is valid until a version with French subtitles or French dubbing becomes available or for sixty days after the date of the first exhibition of the film to the public, whichever occurs first. Subsequently, unless applications are made in accordance with paragraph 1 or 2 of this section, a stamp for this film may be granted only one hundred and eighty days after the date of expiry of the provisional stamp and only for one copy of the original version per format.

80. With the exception of a film that has been altered after its classification, in no case may the Régie reclassify a film before the expiry of three years from the date it was classified.

81. The Régie may revoke a stamp if it is of the opinion that the film is not exhibited to the public in accordance with this Act and the regulations made thereunder.

The Régie must, before deciding on the revocation, give the person concerned an opportunity to make representations.

82. No person may admit to the public exhibition of a film a person under eighteen years of age if the film has been classified “18 or over”.

§ 2.—*Classification of trailers*

83. No person may exhibit a trailer to the public unless the print of the trailer has been stamped in accordance with this Act to show the classification assigned to the trailer.

84. An application for classification must be made in accordance with the regulations of the Régie.

85. The Régie shall classify a trailer in accordance with section 77 and shall stamp the film to show the classification assigned to it.

86. No person may exhibit to the public a trailer classified “18 or over” with a film classified in another class and exhibited to the public in that other class.

DIVISION II

LICENCES

§ 1.—*Exhibitor's Licences*

87. No person may operate premises where films are exhibited to the public unless he holds an exhibitor's licence of the appropriate category determined by regulation of the Régie.

88. An application for an exhibitor's licence or its renewal must be made in accordance with the regulations of the Régie.

89. An exhibitor's licence is valid for the period fixed by the Régie, up to ten years, and is renewable.

90. The duties fixed by regulation of the Régie that are exigible annually from the holder of an exhibitor's licence are payable to the Régie on the issue or renewal of the licence and, subsequently, on 30 April every year.

Where an exhibitor's licence is issued after 1 May, the duties payable for the first year are reduced by the Régie in proportion to the number of months elapsed in that year.

91. A holder of an exhibitor's licence must, in accordance with the regulations of the Régie, forward weekly to the latter, a report on the films he exhibited to the public the preceding week. The report must be attested under oath or by solemn declaration.

The report must include:

- (1) the name of the holder of the exhibitor's licence and his licence number;
- (2) the exact location of the premises where the film is exhibited to the public;
- (3) the title of the film, the number of the stamp and the number of exhibitions to the public;
- (4) the number of admission tickets sold at each exhibition to the public and their unit price;
- (5) the name of the holder of a distributor's licence and his licence number;
- (6) the method and rate of apportionment of revenues agreed upon between the holder of an exhibitor's licence and the holder of a distributor's licence;
- (7) any other information prescribed by regulation of the Régie.

92. The holder of an exhibitor's licence must, in accordance with the regulations of the Régie, post up, in a conspicuous place at the entrance to any premises where he exhibits a film to the public, the class assigned to the film by the Régie under section 77.

Where films classified in several classes are exhibited at the same program, only the most restrictive class shall be posted up.

93. The Régie may, after having given the person concerned an opportunity to make representations, refuse to issue or renew an exhibitor's licence, suspend it or revoke it in the following cases:

- (1) if he has been found guilty of an offence against this Act or any regulation thereunder within the last five years;

- (2) if he fails to pay his annual duties when due;
- (3) if, after having received warning from the Régie, he refuses or fails to comply with the obligations provided for in section 91;
- (4) if he does not satisfy the conditions provided for in this Act and the regulations thereunder for obtaining or renewing the licence.

§ 2.—*Distributor's Licences*

94. No person may sell, lease, lend or exchange films in Québec on a commercial basis unless he holds a distributor's licence.

95. No person may sell, lease or lend video material or exchange it with a retail dealer on a commercial basis unless he holds a distributor's licence.

96. A distributor's licence authorizes its holder to sell, lease, lend or exchange films and video material on a commercial basis.

97. The Régie shall issue or renew a distributor's licence to any person who applies therefor and pays the duties, in accordance with the regulations of the Régie, provided that:

- (1) in the case of a natural person, he is a Canadian citizen;
- (2) in the case of a corporation with share capital, not less than eighty per cent of the shares with unlimited voting rights in any circumstances are the property of Canadian citizens and that all directors and executive officers are Canadian citizens;
- (3) in the case of a corporation without share capital, not less than eighty per cent of its members are Canadian citizens and that all the directors are Canadian citizens.

If one of the corporation's shareholders which makes the application is a legal person, the latter must satisfy the conditions provided in subparagraph 2 or 3 of the first paragraph.

A person admitted to Canada as a permanent resident within the meaning of the Act respecting Immigration to Canada (C.S. 25-26 Elizabeth II, chapter 52) is deemed to be a Canadian citizen within the meaning of this section.

98. A distributor's licence expires on 30 April every year; it may be renewed on payment of the duties prescribed by regulation of the Régie.

Where a distributor's licence is issued after 1 May, the duties payable are reduced by the Régie in proportion to the number of months of the year elapsed.

99. The Régie, after having given the person concerned an opportunity to make representations, may refuse to issue or renew a distributor's permit, or suspend or revoke it, if the person does not satisfy the conditions provided for in this Act for obtaining and renewing a distributor's licence or has committed an offence against this Act within the last five years.

§ 3.—*Filming licences*

100. In no case may a natural person not residing in Canada or a legal person not possessing an establishment in Canada film professionally in Québec unless he holds a filming licence.

101. The Régie shall issue a filming licence to a person applying therefor, on payment of the duties prescribed, in accordance with the regulations of the Régie.

102. A filming licence is valid for such period as the Régie may fix and according to the circumstances.

§ 4.—*Producer's Licences*

103. No person may produce any professional film or video material unless he holds a producer's licence.

104. The Régie shall issue a producer's licence to a person applying therefor, on payment of the duties prescribed, in accordance with the regulations of the Régie.

105. A holder of a producer's licence must, in accordance with the regulations of the Régie, forward to the latter, not later than 30 April every year, a report of his activities for the year preceding that date.

106. A holder of a producer's licence who ceases his activities must return the licence to the Régie without delay.

DIVISION III

AGREEMENTS BETWEEN EXHIBITORS AND DISTRIBUTORS

107. An agreement between a holder of a distributor's licence and the holder of an exhibitor's licence for the exhibition of a film to the public must reserve for both a minimum percentage, determined by regulation of the Régie, of the gross revenues derived from the sale of admission tickets for the film.

108. Any agreement contrary to section 107 is null.

DIVISION IV

VIDEO MATERIAL

§ 1.—*Application*

109. This division binds the Government, its departments and its agencies.

§ 2.—*Filing of agreements*

110. A holder of a distributor's licence shall, before selling, leasing or lending video material to or exchanging it with a retail dealer, file with the Régie a copy of the agreement authorizing him to distribute the video material and, where such is the case, a copy of any other agreement prescribed by regulation of the Régie. The filing must be made in accordance with the regulations of the Régie.

111. The Régie, on filing a copy of the agreements provided for in section 110, shall issue to the holder of a distributor's licence, on payment of the duties prescribed by regulation of the Régie, a filing certificate identifying the contents of the video material concerned.

112. The holder of a distributor's licence shall, for a specific item of video material, attest the filing provided for in section 110 to the retail dealer by forwarding him a copy of the certificate he himself obtained for the material unless another means and the duties payable by the holder of the licence are provided for by regulation of the Régie.

113. In no case may the holder of a distributor's licence sell, lease or lend video material to or exchange it with a retail dealer on a commercial basis unless he has obtained from the Régie the filing certificate required pursuant to section 111 before selling, leasing, lending or exchanging it.

114. No person may sell, lease, lend or exchange video material on a retail or commercial basis unless a filing certificate has been issued for the material.

DIVISION V

RÉGIE DU CINÉMA ET DE LA VIDÉO

§ 1.—*Establishment and organization*

115. A body is hereby established under the name of "Régie du cinéma et de la vidéo".

116. The Régie is composed of three members, including a president, appointed by the Government.

The Government determines the remuneration, social benefits and other conditions of employment of the members of the régie.

The members of the Régie hold office on a full-time basis.

117. The term of office of the members of the Régie must not exceed five years.

In no case may a member of the Régie be appointed for more than two consecutive terms.

118. However, a member remains in office at the end of his term until he is reappointed or replaced.

119. If a member or the president of the Régie is temporarily absent or unable to act, the Government may appoint a person to replace him temporarily.

120. No member of the Régie may, under pain of forfeiture of office, have any direct or indirect interest in an undertaking putting his personal interest in conflict with his duties of office.

However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided that he renounces or disposes of it with all possible dispatch.

121. No member of the Régie or of its personnel may be prosecuted by reason of an official act done in good faith in the exercise of his functions.

122. The president of the Régie is responsible for the administration of the Régie and directs its personnel. He designates, in particular, members of the personnel responsible for the examination and classification of films and trailers in accordance with this Act.

123. The Régie has its head office at the place determined by the Government; a notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

The Régie may sit anywhere in Québec.

124. Two members are a quorum at sittings of the Régie.

125. The secretary and the other members of the personnel of the Régie are appointed and remunerated in accordance with the Civil Service Act.

126. Documents emanating from the Régie, and copies thereof, are authentic if they are certified true by a member of the Régie or by the secretary.

§ 2.—*Functions and Powers*

127. The functions of the Régie are

(1) to classify films and trailers according to the segments of the total audience to which they are directed;

(2) to publish each week, through such means as it considers appropriate, information on films that are classified during the week;

(3) to issue, renew, suspend or revoke exhibitor's or distributor's licences;

(4) issue producer's and filming licences;

(5) to supervise and monitor the sale, leasing, lending or exchange of video material, and to issue filing certificates;

(6) to keep an index of the films produced in Québec;

(7) to supervise the administration of this chapter and the regulations made under it and to inquire into its operation and how it is being complied with.

The Régie shall advise the Minister on any question he may submit to it.

128. If within thirty days of publication of a public notice of its intention to hold a public hearing on the application of and compliance with this chapter the Régie receives a written and substantiated application stating the representations that are to be made, it must hold a public hearing at least once in the two year period following the coming into force of this section, and thereafter once in every subsequent two year period.

Notice is given by such means as the Régie may deem expedient.

129. The Régie, its members and every person entrusted by it with the holding of an inquiry for the carrying out of this chapter are vested, for that purpose, with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

130. The president of the Régie may require that a print of a film already classified by the Régie be sent to him for examination.

§ 3.—*Decisions of the Régie*

131. The Régie renders its decisions in writing and immediately sends a copy thereof to the persons concerned.

The Régie must substantiate its decisions.

132. The Régie, on request, may rectify a clerical error, error in computation or other formal error in any of its decisions.

133. The Régie may establish a compendium of its decisions and determine their form of publication.

§ 4.—*Decisions on classification*

134. Decisions of the Régie under sections 73 to 86, other than decisions on the revocation of stamps, are made by the persons designated by the president in accordance with section 122 of this Act.

135. The Régie may review any decision contemplated in section 134.

§ 5.—*Accounts and reports*

136. The fiscal year of the Régie ends on 31 March every year.

137. Not later than 30 June every year, the Régie shall transmit to the Minister a report of its activities for the preceding fiscal year.

The Minister shall table the report of activities before the National Assembly of Québec within thirty days of its receipt if the Assembly is in session; if it is not sitting, the report shall be tabled within thirty days from the opening of the next session or from resumption, as the case may be.

138. The Régie must give to the Minister any information and financial report he may require on its activities.

139. The books and accounts of the Régie shall be audited annually by the Auditor General and also whenever so ordered by the Government.

DIVISION VI

REVIEW AND APPEAL

§ 1.—*Review*

140. A person who has submitted a film or a trailer for classification and who is not satisfied with a decision contemplated in section 134 may, on payment of the inspection fee prescribed by regulation of the Régie, apply to the Régie for a review of the decision.

141. The application for review of a decision on classification must be presented to the Régie within fifteen days from the date of the decision respecting the classification.

142. The Régie shall, before reaching a decision, give the person applying for a review the opportunity to be heard.

143. When reviewing a decision, the Régie may maintain, quash or amend it.

144. No appeal lies from decisions of the Régie under this division.

§ 2.—*Appeal*

145. An appeal lies to the Provincial Court from decisions of the Régie other than decisions contemplated in sections 134, 135 and 140 to 144, on matters of law or jurisdiction.

146. Appeal is brought by filing a motion at the office of the Provincial Court at the chief place of the judicial district of the domicile or principal establishment of the appellant served on the parties to the proceedings before the Régie and to the Régie within fifteen days of reception of the decision of the Régie by the appellant.

147. Upon service of the motion, the Régie shall send to the Provincial Court the record relating to the decision appealed from.

148. The court must render its decision on the record sent to it by the Régie after allowing the parties to be heard.

149. The appeal does not suspend the execution of the decision of the Régie unless the court decides otherwise. To determine whether or not to suspend execution of the decision, the court must, in particular, consider the resulting inconveniences and the circumstances.

150. The court must notify the parties, in the manner it deems expedient and at least five days in advance, of the date, time and place where they may be heard.

151. The court, at the request of one party, or the clerk, with the consent of the parties, may postpone the date of convocation of the parties.

152. If a party that was convoked fails to appear or refuses to be heard at the sitting fixed or at an adjournment thereof, the court may proceed *ex parte*, give appropriate orders or even declare the appeal dismissed, as the case may be.

153. The court may confirm, amend or quash the decision appealed from and render the judgment that should have been rendered.

154. No appeal lies from the judgment; it must be in writing, substantiated, signed by the judge who rendered it and served on the parties in the manner provided in the rules of practice.

155. The judgment is executory ten days after the date it is served, unless the court orders otherwise.

156. When dismissing an appeal that it considers dilatory or excessive, the court may, *ex officio* or at the request of either party, condemn the appellant to damages.

157. The Provincial Court may, in the manner provided in article 47 of the Code of Civil Procedure, adopt the rules it considers necessary for the proper carrying out of this division.

DIVISION VII

REGULATIONS

158. The Régie may, by regulation,

(1) prescribe the payment of a fee for examination of an application for classification, for a licence or for review, and determine the amount thereof;

(2) establish standards and conditions for the exhibition of a stamp, the posting up and the exhibition of the classification of a film, including any information or warning that must appear thereon;

(3) prescribe the amount of the duties payable annually by the holder of an exhibitor's licence; this amount may vary according to the class of the licence;

(4) prescribe the amount of the duties payable by the holder of a distributor's, producer's or filming licence;

(5) fix the procedure for the filing, examination and, as the case may be, hearing of any application, including applications for review, that must be submitted to it under this chapter, the applicable time limits and the required documents and vouchers;

(6) determine the modalities and form of the report contemplated in section 91 and any other information it must contain;

(7) determine the modalities and the form and content of the report contemplated in section 105;

(8) determine the conditions and modalities of filing of agreements contemplated in section 110;

(9) prescribe, for the purposes of section 110, the filing of any other agreement;

(10) fix the amount of the duties contemplated in section 111;

(11) determine the measures, and the amount of the duties contemplated in section 112.

159. The Régie may also, by regulation,

(1) establish categories of exhibitor's licences, taking into account the nature of the premises where films are exhibited, the frequency at which they are exhibited, whether the exhibition of films is the main or a secondary use of the premises, and whether the premises are covered by a permit issued under the Act respecting liquor permits (R.S.Q., chapter P-9.1);

(2) establish conditions for obtaining exhibitor's licences according to the categories;

(3) fix the rights and obligations that each category of licence confers on its holder;

(4) establish, after consultation with the Institut, technical standards respecting the exhibition of films to the public;

(5) establish standards for the arrangement or conversion of a place where films are exhibited to the public;

(6) determine the percentage contemplated in section 107.

For the purposes of subparagraph 1 of the first paragraph, a licence to operate an outdoor cinema constitutes a category of exhibitor's licence. The same applies to an exhibitor's licence for an

unestablished theatre provided that it is issued to a non-profit corporation within the meaning of the Companies Act (R.S.Q., chapter C-38) or to a cooperative within the meaning of the Cooperative Associations Act (R.S.Q., chapter A-24) the main activity of which relates to the field of film and video.

160. A regulation made by the Régie must be submitted for approval to the Government, which may amend it.

161. Before submitting a regulation adopted under section 158 to the Government for approval, the Régie shall publish it in the *Gazette officielle du Québec*, with a notice that on the expiry of not under thirty days from publication, it will be submitted for approval to the Government.

162. Before submitting a regulation adopted under section 159 to the Government for approval, the Régie shall publish it in the *Gazette officielle du Québec*, with a notice.

The notice must indicate that at the expiry of thirty days from publication, public hearings will be held on the regulation if the Régie has, during that time, received written and substantiated application to that effect. It must also indicate that the regulation will subsequently be submitted, with or without amendment, for approval to the Government.

163. A regulation adopted by the Régie and approved by the Government comes into force on the date of its publication in the *Gazette officielle du Québec* or on any subsequent date indicated in the regulation.

DIVISION VIII

INSPECTIONS AND SEIZURES

164. Any person authorized by the Régie to act as an inspector may enter any place where video material is sold, in order to ascertain that the filing certificate has been issued in accordance with this Act; it may also enter any place where films intended for public exhibition are kept, or any place where films are exhibited to the public, in order to examine a film and ascertain that a stamp has been affixed by the Régie on a print of the film in accordance with this Act or to ascertain that a regulation contemplated in subparagraph 4 or 5 of the first paragraph of section 159 is being complied with.

165. An inspector may require any information or document relating to the carrying out of this Act.

166. An inspector shall produce, on demand, a certificate of his office signed by the president or the secretary of the Régie.

167. An inspector may require the issue of a search warrant under the Summary Convictions Act (R.S.Q., chapter P-15) and seize a print of a film on which no stamp has been affixed by the Régie in accordance with this Act, video material for which no filing certificate has been issued by the Régie in accordance with this Act, or the print of a film or video material which has been used in contravention of this Act or a regulation thereunder.

A justice of the peace may order a film or video material to be returned once it has served the purpose for which it was seized; he may also order pirated prints or video material for which no filing certificate has been issued to be destroyed.

DIVISION IX

PENALTIES

§ 1.—*Penal provisions*

168. No person may

(1) obtain a licence under a name other than his own, or a licence on which his name is not shown as being the name of the person to whom the licence has been issued;

(2) if he holds a licence, lease or lend it to another person or trade it; or

(3) use a licence issued to another person.

169. Any person who infringes section 73, 82, 83, 86, 87, 92, 94, 95, 100, 103, 107, 110, 112, 113, 114 or 168 or a regulation made under this chapter is guilty of an offence and liable, in addition to costs, to a fine of not less than \$100 nor more than \$1 000 in the case of an individual and not less than \$500 nor more than \$2 000 in the case of a corporation or partnership and, for a subsequent offence within five years, to a fine of not less than \$200 nor more than \$5 000 in the case of an individual and not less than \$1 000 nor more than \$10 000 in the case of a corporation or partnership.

170. Any person who hinders an inspector of the Régie in the performance of his duties, misleads him by concealment or false declarations, refuses to give him any information, document, film or video material he is entitled to require or examine under this Act,

or conceals or destroys a document, film or video material being the object of an inquiry is guilty of an offence and liable, in addition to costs, to the fine provided for in section 169.

171. No error or oversight made in good faith is an offence within the meaning of this subdivision.

172. Proceedings are instituted under the Summary Convictions Act (R.S.Q., c. P-15) by the Attorney General or any person generally or specially authorized by him for that purpose.

§ 2.—*Special recourses*

173. The Régie may order the suspension of work on or the total or partial closing of premises where films are exhibited to the public if the premises fail to meet the standards of arrangement or conversion or the technical standards on public film presentation prescribed by regulation of the Régie.

The Régie must send forthwith to the person concerned a written notice of its decision and inform him of the measures to be taken and the time granted to comply with the regulations.

174. The Régie, upon finding out, at the expiry of the time granted, that the person fails to comply with the notice, shall inform the Minister of it in writing.

175. Where an order of the Régie rendered under section 173 is not complied with, the Superior Court may, on a motion by the Minister or any person generally or specially designated by him for that purpose, order the demolition of the structure and order the owner of the premises where films are exhibited to maintain the premises closed until the work required to meet the regulatory requirements is carried out.

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

176. The Minister of Cultural Affairs is responsible for the administration of this Act.

177. Section 3 of the Act respecting the Ministère des affaires culturelles (R.S.Q., c. M-20) is amended by striking out paragraphs *c* and *d*.

178. Sections 17 and 18 of the said Act are repealed.

179. Paragraph 1 of section 23 of the Licenses Act (R.S.Q., chapter L-3) is amended by striking out the words "moving picture theatre".

180. Paragraph 2 of section 23 of the said Act is repealed.

181. Section 30 of the said Act is repealed.

182. The Act respecting the Société québécoise de développement des industries culturelles (R.S.Q., chapter S-18.3), amended by chapter 14 of the statutes of 1982, is amended by inserting, after section 21, the following section:

"**21.1** Failing a written agreement with the Société générale du cinéma established under the Act respecting the cinema and video industry (*insert here the chapter number of Bill 109*), the Société shall grant no direct financial assistance to the creation, direction or production of a film within the meaning of the said Act."

183. This Act replaces the Cinema Act (R.S.Q., 1964, chapter 55) and the Act respecting the Cinema (R.S.Q., chapter C-18).

184. The regulations made under the Cinema Act (R.S.Q., 1964, chapter 55) and the Act respecting the Cinema (R.S.Q., chapter C-18) remain in force, where not inconsistent with this Act, and are deemed to have been made under this Act.

185. Every film classified by the Cinema Supervisory Board before the coming into force of this section is deemed to have been classified under this Act, in the corresponding class provided for in section 77.

Any trailers approved by the Cinema Supervisory Board before the coming into force of this section is deemed to have been approved under this Act.

186. The holder of a permit to fit up, alter or operate an outdoor theatre under the Cinema Act (R.S.Q., 1964, chapter 55) is deemed to be the holder of an exhibitor's licence issued under this Act, for one year from the date of the coming into force of this section. Thereafter, it is renewed in conformity with this Act.

187. The holder of a licence issued under section 27 or 30 of the Licenses Act (R.S.Q., chapter L-3) and intended to permit the operation of a moving picture theatre or a film exchange business is deemed to be the holder of an exhibitor's licence or distributor's licence, as the case may be, issued under this Act and valid until the date of expiration of his licence. Thereafter, it is renewed in conformity with this Act.

However, the holder of a distributor's licence who is not complying with the conditions set forth in section 97 of this Act may have his licence renewed for a period of two years from the coming into force of this section; at the end of that period, he must comply with section 97.

188. The Régie du cinéma et de la vidéo succeeds to the Cinema Supervisory Board for all legal purposes.

The Régie is authorized to use any documents or means of identification that were prepared in the name of the Cinema Supervisory Board, until it is able to replace them by documents or means of identification prepared in the name of the Régie du cinéma et de la vidéo.

189. The cases pending before the Cinema Supervisory Board or the Minister under the Cinema Act (R.S.Q., 1964, chapter 55) on the date of the coming into force of this section are continued and decided by the Régie in conformity with this Act.

190. The chairman of the Cinema Supervisory Board appointed under the Cinema Act (R.S.Q., 1964, chapter 55) becomes a member of the Régie du cinéma et de la vidéo on the day of the coming into force of this section, for as long as the Government determines.

191. The members of the Cinema Supervisory Board, other than the chairman, appointed under the Cinema Act (R.S.Q., 1964, chapter 55), whose terms of office have not expired on the day of the coming into force of this section and who are not civil servants within the meaning of the Civil Service Act (R.S.Q., chapter F-3.1), become members of the personnel of the Régie du cinéma et de la vidéo on the day of the coming into force of this Act.

They shall remain in office for as long as the Government determines and continue to receive their salaries.

192. The members of the Cinema Supervisory Board, other than the chairman, appointed under the Cinema Act (R.S.Q., 1964, chapter 55), whose terms of office have not expired on the day of the coming into force of this section and who are civil servants within the meaning of the Civil Service Act, become members of the personnel of the Régie du cinéma et de la vidéo on the day of the coming into force of this section.

Notwithstanding the Civil Service Act (R.S.Q., chapter F-3.1), the Government may assign appropriate classification to those civil servants.

193. The personnel of the Cinema Supervisory Board in office at the coming into force of this section become the personnel of the Régie du cinéma et de la vidéo.

194. In any Act, proclamation, order in council, order, contract or document, the expressions "Board of Cinema Censors" and "Cinema Supervisory Board" designate the Régie du cinéma et de la vidéo.

195. The members of the Institut québécois du cinéma appointed under the Cinema Act (R.S.Q., chapter C-18) become members of the Institut québécois du cinéma et de la vidéo established under this Act, on the day of the coming into force of this section and for as long as the Government determines.

196. The personnel of the Institut québécois du cinéma, including its director general, in office on the day of the coming into force of this section, becomes the personnel of the Société générale du cinéma et de la vidéo.

197. The Société générale du cinéma et de la vidéo acquires the rights and assumes the obligations of the Institut québécois du cinéma established under the Cinema Act (R.S.Q., chapter C-18).

[[**198.** The sums required for the application of this Act for the fiscal year 1982-1983 are taken out of the consolidated revenue fund and, for subsequent years, out of the appropriations voted every year therefor by the Legislature.]]

199. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

200. This Act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by such proclamation, which will come into force on any later date that may be fixed by proclamation of the Government.

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