

Theatres and Amusements Act

CHAPTER 466 OF THE REVISED STATUTES, 1989

as amended by

2000, c. 28, ss. 99-102; 2001, c. 3, s. 32; 2004, c.17;
2012, c. 8, ss. 20-27; 2014, c. 34, s. 67



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**An Act Respecting Theatres,
Cinematographs and Other Amusements**

Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation.....	2
Exemption.....	3
Regulations.....	4
Powers and duties.....	5
Marking of video films.....	6
Video games.....	6A
Municipal powers.....	7
No obstruction of Inspector.....	8
Theatre and amusement taxes.....	9
Cable television tax.....	10
Collection of taxes.....	11
Recovery of taxes.....	12
Offence and penalty.....	13
Summary Proceedings Act.....	16
Use of penalty and fees.....	17
Duty of peace officer.....	18
Agent of film exchange.....	19
License required by film exchange.....	20
Statement by film exchange.....	21
Prohibition on discrimination by film exchange.....	22
Deemed unjust discrimination.....	23
Alteration of film prohibited.....	25
Contravention of Act.....	26

Short title

1 This Act may be cited as the *Theatres and Amusements Act*. R.S.,
c. 466, s. 1.

Interpretation

2 In this Act,

(a) “amusement owner” includes every person, firm, association, company or corporation, that for gain conducts a place of amusement or that for gain permits the public or some of them to participate or indulge in any amusement or recreation whatsoever, but does not include a theatre owner where only a performance is given in the theatre;

(b) *repealed 2000, c. 28, s. 99.*

(c) “cinematograph” means a cinematograph, moving picture machine or other similar apparatus;

(ca) “Department” means Service Nova Scotia;

(cb) “Entertainment Software Rating Board” means the Entertainment Software Rating Board established by the Entertainment Software Association in the United States of America;

NOTE - *Section 102 of Chapter 28 of the Acts of 2000 amends this Act by replacing all references to the “Board” with “Minister” and all references to “its” with “the Minister’s”. In clauses 2(cb), 4(1)(kd) and 6A(1)(a) of this Act, “Board” clearly does not refer to “Minister” in reference to the Entertainment Software Rating Board. In subsection 6A(1) of this Act, “its” clearly should not be replaced by “Minister” in reference to “its video games”. These changes have not been made.*

(d) “film” means a cinematograph film or slide, including a video film, video tape, video cassette or video disc, a DVD-video, a video game and any other medium specified in the regulations from which moving visual images may be produced;

(da) “Film Classification Board” means a board established to classify films under this Act;

(db) “film classifier” means a person appointed to classify films under this Act;

(e) “inspector” means an inspector appointed under this Act;

(ea) “Minister” means Minister of Service Nova Scotia;

(f) “peace officer” means any sheriff, sheriff’s officer, police officer or constable or any other person employed for the preservation and maintenance of the public peace;

(g) “performance” means any theatrical, vaudeville, musical or moving picture performance or exhibition for public entertainment, or any other performance or exhibition for public entertainment, whether or not of the kind hereinbefore enumerated;

(h) “place of amusement” includes every building, tent, enclosure or place and every structure, apparatus, machine, contrivance or device whatsoever, the purpose of which is to provide any amusement or recreation whatsoever for the public or some of them and which is conducted for gain, but does not include a theatre where only a performance is given therein;

(i) “theatre” means any building, tent, enclosure or place in which any performance is given in respect to which an admission fee is charged;

(j) “theatre owner” means any person, firm, company or corporation operating a theatre in the Province;

(ja) “Utility and Review Board” means the Nova Scotia Utility and Review Board;

- (k) “video game” means an object or device that
- (i) stores recorded data or instructions,
 - (ii) receives data or instructions generated by a person who uses it, and
 - (iii) by processing the data or instructions, creates an interactive game capable of being played, viewed or experienced on or through a computer, gaming system, console or other technology,

but does not include a class of games prescribed by the regulations;

(l) “video-game outlet” means a retail establishment that sells, leases, rents, exchanges, distributes or otherwise makes available for use video games to the public for consideration and includes a place of amusement that makes a video game available for use. R.S., c. 466, s. 2; 2000, c. 28, s. 99; 2004, c. 17, s. 1; 2012, c. 8, s. 20; 2014, c. 34, s. 67.

Exemption

3 Video films, video tapes, video cassettes and video discs that are

- (a) educational films used for instruction in educational institutions;
- (b) cultural films;
- (c) heritage films;
- (d) religious films;
- (e) children’s cartoons;
- (f) travelogues;
- (g) political films;
- (h) films used for industrial or business promotions;
- (i) sporting events;
- (j) films exempted by the Governor in Council,

are exempt from this Act unless exhibited in a theatre. R.S., c. 466, s. 3.

Regulations

4 (1) The Governor in Council may from time to time make regulations for or in relation to or incidental to any one or more or to any part or parts of any one or more of the following matters:

- (a) the licensing and regulating of theatres and places of amusement;
- (b) regulating and licensing or prohibiting
 - (i) any performance or performances in a theatre or theatres,

- (ii) any amusement or amusements or recreation or recreations in a place or places of amusement, and
- (iii) any amusement or amusements or recreation or recreations for participating or indulging in which, by the public or some of them, fees are charged by any amusement owner;
- (c) prescribing criteria in accordance with which the Minister may exercise the Minister's powers;
 - (ca) prescribing a classification scheme for films, including
 - (i) establishing different classifications for different classes of films,
 - (ii) adopting, by reference, a classification scheme established by another person or body, subject to any changes the Governor in Council considers appropriate,
 - (iii) establishing criteria for film classification;
 - (cb) prescribing rules and procedures for the Film Classification Board;
 - (d) exempting any amusement owner, theatre, theatre owner, film exchange, place of amusement, place, performance, film, machine or person or any class or type thereof from any provision of this Act or the regulations;
 - (e) the construction, use, safety, inspection and supervision of theatres;
 - (f) the licensing, using and operating of cinematographs;
 - (g) prescribing the terms and conditions under which cinematographs shall be operated;
 - (h) the licensing, operating and defining of film exchanges;
 - (i) prohibiting or regulating the exhibition, sale, lease and exchange of films;
 - (j) the examining, regulating and licensing of cinematograph operators and apprentices;
 - (k) prescribing the terms and conditions under which films shall be exhibited, sold, leased and exchanged;
 - (ka) prescribing classes of video games to which Section 6A does not apply;
 - (kb) respecting the manner in which video games are to be marked with any classifications given to them;

(kc) respecting the displaying, selling, leasing, renting, exchanging or distribution of video games or other manners of making video games available for use;

(kd) establishing, adopting or otherwise providing for classification or systems of classification of video games in addition to or in place of classifications given by the Entertainment Software Rating Board;

NOTE - *Section 102 of Chapter 28 of the Acts of 2000 amends this Act by replacing all references to the "Board" with "Minister" and all references to "its" with "the Minister's". In clauses 2(cb), 4(1)(kd) and 6A(1)(a) of this Act, "Board" clearly does not refer to "Minister" in reference to the Entertainment Software Rating Board. In subsection 6A(1) of this Act, "its" clearly should not be replaced by "Minister" in reference to "its video games". These changes have not been made.*

(ke) respecting restrictions on the age of persons to whom a video-game outlet may sell, lease, rent, exchange, distribute or otherwise make video games of certain classifications available;

(kf) respecting restrictions on video games at places of amusement including restrictions on the age of persons permitted to play video games;

(l) prescribing the term or period during which any class of license shall be in force;

(m) prescribing and regulating the fees, including methods for ascertaining, calculating or determining the fees to be paid for licenses, for examinations of cinematograph operators and for examinations of films;

(n) prescribing by whom licenses shall be issued;

(o) the making of such returns or reports by such persons and in respect to such matters as may be deemed expedient for the purpose of giving effect to this Act or regulations made thereunder;

(p) any other matters that appear to the Governor in Council necessary or expedient for the purpose of giving full effect to the provisions of this Act or to any of said provisions.

(2) No fee for administering any oath verifying any return or report, referred to in clause (o) of subsection (1), shall be payable to or charged by any justice of the peace, commissioner or other person authorized to administer such oath.

(3) If the Governor in Council is of the opinion that the enactments, including any ordinances, by-laws or regulations, of any city in respect of the construction, alteration and repair of buildings are as adequate for all purposes as the regulations made under this Act, the Governor in Council may order that

those regulations made under this Act in relation to the construction, alteration and repair of theatres and the inspection thereof in connection therewith shall not apply to such city, and that the said enactments, ordinances, by-laws and regulations of such city shall have full force and effect therein.

(4) The Minister may in the Minister's absolute discretion revoke or suspend any license issued under the authority of this Act or of the regulations. R.S., c. 466, s. 4; 2000, c. 28, s. 102; 2004, c. 17, s. 2; 2012, c. 8, s. 21.

Powers and duties

5 (1) *repealed 2000, c. 28, s. 100.*

(2) The Minister may, in accordance with the criteria prescribed by the regulations, permit or prohibit

(a) the use or exhibition in the Province, or in any part or parts thereof, for public entertainment of any film;

(b) any performance in any theatre;

(c) any amusement in a place of amusement or any amusement or recreation for participating or indulging in which by the public or some of them fees are charged by any amusement owner;

(d) any sale, lease, rental, exchange or distribution of a film.

(3) There is hereby established a Film Classification Board consisting of one or more members appointed by the Minister.

(4) In appointing persons pursuant to subsection (3), the Minister may

(a) fix the term of the member's appointment; and

(b) fix the remuneration to be paid to the member.

(5) At the request of the Minister, members of the Film Classification Board shall in accordance with the criteria prescribed by the regulations, classify a film by

(a) viewing the film and establishing a classification for it;

or

(b) reviewing documentation or other information describing the content of the film and establishing a classification for the film.

(6) The Minister may appoint an employee of the Department and authorize the employee to

(a) classify a film in accordance with subsection (5); or

(b) adopt a classification established by another person or body for a film.

(6A) Where an employee of the Department has adopted a classification pursuant to clause (6)(b), the Minister may request that the employee review that classification in accordance with ~~clause~~ [subsection] (5) at any time and either

(a) confirm the classification; or

(b) rescind the classification and classify the film in accordance with the regulations;

(6B) Any power mentioned in subsection (2) to (6A) may be exercised, notwithstanding the previously permitted use, exhibition, sale, lease, rental, exchange or distribution of the film or that a license is in force.

(6C) There is an appeal from a decision of the Film Classification Board, a film classifier appointed under subsection (6) or the Minister to the Nova Scotia Utility and Review Board, and subject to the conditions prescribed by regulation of the Governor in Council.

(6D) The Minister may appoint inspectors for the purpose of this Act and the regulations.

(7) An inspector and every peace officer shall for the purposes of enforcing this Act, and the regulations, have power to enter and to inspect theatres and to inspect cinematographs, and to inspect places of amusement.

(8) An inspector shall perform such other duties as the Minister requires.

(9) The Minister may delegate any power or duty conferred or imposed by this Act to an employee of the Department.

(10) *repealed 2012, c. 8, s. 22.*

R.S., c. 466, s. 5; 2000, c. 28, ss. 100, 102; 2004, c. 17, s. 3; 2012, c. 8, s. 22.

Marking of video films

6 (1) In this Section, “video outlet” means a retail establishment which sells, leases, rents, exchanges or distributes film for use in a video cassette recorder, video disc player or similar device to the public for consideration.

(2) Except as provided by the regulations, a video outlet shall ensure that each of its films is marked with the classification given in accordance with this Act and the regulations, which classification must be affixed in such manner as the Minister may determine to both the container in which the film is kept and any container used for display purposes.

(3) Except as provided by the regulations, no video outlet shall sell, lease, rent, exchange or distribute any film unless it

(a) has been classified in accordance with this Act and regulations; and

(b) bears the appropriate classification for that film. R.S., c. 466, s. 6; 2000, c. 28, s. 102; 2012, c. 8, s. 23.

Video games

6A (1) Except as provided by the regulations, a video-game outlet shall ensure that each of its video games, and any container in which a video game is displayed, sold, leased, rented, exchanged, distributed or made available, is marked with the classification given to the video game by the Entertainment Software Rating Board or with such other classification as is established, adopted or otherwise provided for under the regulations.

(2) Except as provided by the regulations, no video-game outlet shall sell, lease, rent, exchange, distribute or otherwise make available any video game unless the video game

(a) has been classified by the Entertainment Software Rating Board or given such other classification as is established, adopted or otherwise provided for under the regulations; and

(b) the video game is marked in accordance with subsection (1).

NOTE - Section 102 of Chapter 28 of the Acts of 2000 amends this Act by replacing all references to the "Board" with "Minister" and all references to "its" with "the Minister's". In clauses 2(cb), 4(1)(kd) and 6A(1)(a) of this Act, "Board" clearly does not refer to "Minister" in reference to the Entertainment Software Rating Board. In subsection 6A(1) of this Act, "its" clearly should not be replaced by "Minister" in reference to "its video games". These changes have not been made.

(3) No video-game outlet or employee or agent of a video-game outlet shall sell, lease, rent, exchange, distribute or otherwise make available any video game to any person to whom the video-game outlet is restricted by the regulations from selling, leasing, renting, exchanging, distributing or otherwise making available such video. 2004, c. 17, s. 4.

Municipal powers

7 (1) Notwithstanding any enactment or law made by the Legislature, or made under the authority of any such enactment or law, the council of any city, town or municipality shall not have power to make any by-laws, rules, regulations or ordinances in relation to any of the matters mentioned in Section 4, except the construction of theatres, and all by-laws, rules, regulations and ordinances of

any city, town or municipality in relation to any of the said matters, except the construction of theatres, are repealed and are declared to be inoperative.

(2) Notwithstanding this Act, the council of any city, town or municipality may from time to time make, amend or repeal by-laws regulating and licensing circuses or other itinerant amusement performances. R.S., c. 466, s. 7.

No obstruction of Inspector

8 No person shall in any way interfere with, impede or obstruct the Inspector in the performance of his duty. R.S., c. 466, s. 8.

Theatre and amusement taxes

9 (1) Every person attending a performance at a theatre shall upon each admission thereto pay, to Her Majesty for the use of the Province, a tax to be collected as in this Act provided and according to such scale as from time to time the Governor in Council prescribes.

(2) Every person attending any place of amusement and every person participating or indulging in any recreation or amusement whatsoever shall, upon each such attendance or participation or indulgence where a fee is charged for the same, whether charged before or after such attendance, participation or indulgence, pay, to Her Majesty for the use of the Province, a tax to be collected as in this Act provided and according to such scale as from time to time the Governor in Council prescribes. R.S., c. 466, s. 9.

Cable television tax

10 Notwithstanding anything contained in this Act, the Governor in Council may by regulation from time to time prescribe an amusement tax which shall be paid by the users of such cable television services as determined by regulation, and the person providing the cable television service shall collect the amusement tax and pay it to Her Majesty in right of the Province as determined by regulation. R.S., c. 466, s. 10.

Collection of taxes

11 (1) The taxes aforesaid shall be collected by the theatre and amusement owner respectively and, where in respect of any particular theatre or place of amusement or any particular amusement or recreation the Minister deems it expedient, the tax shall be so collected by means of tickets issued by the Minister.

(2) The ticket shall be in such form as the Governor in Council from time to time prescribes.

(3) The Minister may furnish the tickets to theatre owners and place of amusement owners respectively and other persons who shall hold the same for sale and may sell the same for the amounts represented by the tickets respectively.

(4) Where the tax is to be collected by means of tickets, every theatre owner and amusement owner shall place at the entrance to the theatre or place of amusement, or in a prominent position at the place where the amusement or recreation is participated or indulged in respectively, a receptacle in which shall be deposited as in this Act provided the tickets sold under this Act.

(5) The receptacle shall be of such pattern and according to such specifications as the Minister prescribes.

(6) No person shall, where the tax imposed by this Act is payable by him,

- (a) enter a theatre;
- (b) enter a place of amusement; or
- (c) participate or indulge in any recreation or amusement whatsoever,

unless and until such person has paid the tax and, where the tax is to be collected by means of tickets, has deposited in the receptacle a ticket representing the amount of the tax.

(7) Where the tax imposed by this Act is payable by any person, no theatre owner and no amusement owner, and no employee or agent of a theatre owner or amusement owner, shall allow, permit or authorize or be a party or privy to the admission of any such person to a theatre or to the admission of any person to a place of amusement or to the participation or indulgence by any such person in any recreation or amusement whatsoever, unless and until the person has paid the tax.

(8) Every theatre owner and every amusement owner shall at such times or periods as the Minister from time to time determines

- (a) return to the Minister the tickets that have been deposited in the receptacle where the tax is collected by means of tickets; and
- (b) pay over to the Minister all moneys received from the sale of said tickets or received for the tax or account for the moneys in such other manner as prescribed by the Governor in Council.

(9) The Governor in Council may exempt

- (a) persons attending performances at any class or classes of theatre or attending any performance or performances at any theatre or theatres;
- (b) persons attending any class or classes of place of amusement or any place or places of amusement;
- (c) persons participating or indulging in any class or classes of amusement or recreation or any recreation or amusement,

from the provisions of this Act which relate to the taxation of persons attending performances at theatres, attending places of amusement or participating or indulging in any amusement or recreation, respectively. R.S., c. 466, s. 11; 2000, c. 28, s. 102; 2001, c. 3, s. 32.

Recovery of taxes

12 The taxes due and payable pursuant to this Act to Her Majesty in right of the Province may be recovered by Her Majesty in an action in debt against the person who is required by this Act or the regulations to collect the taxes, namely, the theatre owner, the amusement owner or the person providing the cable television service, as the case may be, in any court and the court may make such order as to the costs it may determine. R.S., c. 466, s. 12.

Offence and penalty

13 Every person who violates or fails to comply with any provision of this Act or the regulations or an order or direction given under this Act or the regulations and every director of a corporation who knowingly concurs in a violation or failure to comply with any provision of this Act or the regulations or an order or direction given under this Act or the regulations is guilty of an offence and liable on summary conviction to the same penalty as is provided for an offence under the *Consumer Protection Act*. R.S., c. 466, s. 13.

14 and 15 *repealed 2012, c. 8, s. 24.*

Summary Proceedings Act

16 The penalties and imprisonments prescribed for the violation of this Act or of any of the regulations made thereunder shall be recovered or enforced under the *Summary Proceedings Act*. R.S., c. 466, s. 16.

Use of penalty and fees

17 (1) Any penalty imposed for a violation of this Act or of any regulation made thereunder shall, when received, be paid over by the convicting judge or justice of the peace to the Minister of Finance for the use of the Province.

(2) All fees paid under this Act or the regulations made thereunder shall be for the use of the Province. R.S., c. 466, s. 17.

Duty of peace officer

18 It shall be the duty of every peace officer to enforce this Act and the regulations made thereunder. R.S., c. 466, s. 18.

Agent of film exchange

19 Every film exchange carrying on business in the Province shall have an agent in the Province and shall from time to time notify the Minister of the name and address of such agent. R.S., c. 466, s. 19; 2000, c. 28, s. 102.

License required by film exchange

20 (1) No film exchange shall sell, lease, rent, exchange or distribute any film in the Province without first having obtained from the Minister a license thereunder.

(1A) A license issued pursuant to subsection (1) must be displayed in a place clearly visible to the public.

(2) The fee for such license shall be such amount as the Governor in Council prescribes by regulation and every such license shall expire on the thirtieth day of November of each year. R.S., c. 466, s. 20; 2000, c. 28, s. 102; 2012, c. 8, s. 25.

Statement by film exchange

21 The Minister may require every film exchange or any particular film exchange or film exchanges to submit to the Minister from time to time a statement showing

(a) the name or other description of any or all films proposed to be sold, leased, rented, exchanged or distributed by such film exchange in the Province during any period for which such information is available;

(b) the terms and conditions on which any film has been or is proposed to be sold, rented, leased, exchanged or distributed to any theatre owner; and

(c) such other information relative to the sale, lease, rental, exchange or distribution of films in the Province as the Minister may from time to time require. R.S., c. 466, s. 21; 2000, c. 28, s. 102.

Prohibition on discrimination by film exchange

22 Unjust discrimination by film exchanges in respect of the selling, leasing, renting, exchanging or distribution of films is hereby prohibited and declared unlawful. R.S., c. 466, s. 22.

Deemed unjust discrimination

23 If any film exchange shall knowingly or wilfully make or give any undue or unreasonable preference or unfair advantage to any theatre owner or shall subject any theatre owner to any undue or unreasonable prejudice or unfair disadvantage in any respect whatsoever, such film exchange shall be deemed guilty of unjust discrimination. R.S., c. 466, s. 23.

24 *repealed 2012, c. 8, s. 26.*

Alteration of film prohibited

25 No person shall alter or cause to be altered, for the purpose of exhibition, sale, lease, rental, exchange or distribution in the Province, any film from its state as classified in accordance with this Act and regulations. R.S., c. 466, s. 25; 2000, c. 28, s. 102; 2012, c. 8, s. 27.

NOTE - Section 102 of Chapter 28 of the Acts of 2000 amends this Act by replacing all references to the "Board" with "Minister" and all references to "its" with "the Minister's". In Section 25 of this Act, "its" clearly does not refer to the Board and the change has not been made.

Contravention of Act

26 (1) Where the Minister is satisfied after due inquiry that any film exchange or theatre owner has violated this Act or any regulations made hereunder the Minister may

- (a) revoke or cancel any license of such film exchange;
- (b) revoke or cancel any license of such theatre owner; or
- (c) attach to any of such licenses such terms, conditions or restrictions as ~~it~~ [the Minister] deems advisable.

(2) The Minister may act upon the report of an employee of the Department and any inquiry that the Minister deems necessary to make may be made by the Minister or by an employee of the Department or some other person appointed by the Minister to make the inquiry. R.S., c. 466, s. 26; 2000, c. 28, s. 101, 102.
