

Amendments to guidelines for censors under Film Censorship Ordinance gazetted

Amendments to the guidelines for censors under the Film Censorship Ordinance (Cap. 392) (the Ordinance) were gazetted today (June 11). The amendments seek to provide censors with clearer guidelines on film examination and classification following the implementation of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law).

Under the current film censorship regulatory framework, films intended for public exhibition have to be examined and classified by censors according to the criteria under sections 10(2) and 10(3) of the Ordinance, as set out below:

- (1) whether the film portrays, depicts or treats cruelty, torture, violence, crime, horror, disability, sexuality or indecent or offensive language or behaviour;
- (2) whether the film denigrates or insults any particular class of the public by reference to the colour, race, religious beliefs or ethnic or national origins or the sex of the members of that class;
- (3) the effect of the film as a whole and its likely effect on the persons likely to view the film;
- (4) the artistic, educational, literary or scientific merit of the film and its importance or value for cultural or social reasons; and
- (5) in relation to the intended exhibition of the film, the circumstances of such exhibition.

"According to Article 3 of the National Security Law, it is the duty of the Hong Kong Special Administrative Region (HKSAR) under the Constitution to safeguard national security and the HKSAR shall perform the duty accordingly, and that the executive authorities, legislature and judiciary of the HKSAR shall effectively prevent, suppress and impose punishment for any act or activity endangering national security in accordance with the National Security Law and other relevant laws. The censor must abide by these provisions in discharging his duties under the Ordinance," a spokesman for the Commerce and Economic Development Bureau said.

Key amendments to the Film Censorship Guidelines for Censors include:

- (1) the censor should be vigilant to the portrayal, depiction or treatment of any act or activity which may amount to an offence endangering national

security, or which may otherwise jeopardise the safeguarding of national security by the HKSAR, and any content of a film which is objectively and reasonably capable of being perceived as endorsing, supporting, promoting, glorifying, encouraging or inciting such act or activity;

(2) when considering a film as a whole and its effect on the viewers, the censor should have regard to his duties to prevent and suppress acts or activities endangering national security, and the common responsibility of the people of Hong Kong to safeguard the sovereignty, unification and territorial integrity of the People's Republic of China;

(3) having regard to the fundamental importance of safeguarding national security and to effectively prevent or suppress any act or activity endangering national security, the censor may come to the opinion that a film is not suitable for exhibition on the basis of matters referred to in section 10(2) and section 10(3) of the Ordinance; and

(4) generally speaking, if the exhibition of a film would likely constitute an offence endangering national security, or if the film contains a matter referred to in section 10(2) of the Ordinance and the film as a whole and its effect on the viewers may endanger national security or the safeguarding of national security, the censor should form the opinion that the film is not suitable for exhibition.

"The film censorship regulatory framework is built on the premise of a balance between protection of individual rights and freedoms on the one hand, and the protection of legitimate societal interests on the other. Although fundamental rights (including the right to freedom of expression in the exhibition of films) should be respected, the exercise of such rights are subject to restrictions provided by law that are necessary for pursuing legitimate aims, such as respecting the rights or reputation of others, and the protection of national security or public order, or public health or morals," the spokesman said.

The Ordinance stipulates that films intended for public exhibition have to be submitted to the Film Censorship Authority. Censors may determine the suitability of a film for exhibition and its classification, and the need for excisions and imposing conditions according to the Ordinance.

The Secretary for Commerce and Economic Development may, in accordance with section 30 of the Ordinance, from time to time cause to be prepared, guidelines not inconsistent with the Ordinance, indicating the manner in which it is proposed that censors exercise their functions under the Ordinance.

The amended guidelines take effect today. For details, please visit the website:

www.ofnaa.gov.hk/filemanager/ofnaa/en/content_1398/filmcensorship.pdf.