



NOTIFICATION

FILMS AND PUBLICATIONS AMENDMENT REGULATIONS, 2020

On 19 March 2019, at a Plenary Session of the National Assembly, the Films and Publications Amendment Bill, 2015 (Bill) was put to a vote and was passed. Having been assented to by both Houses of Parliament, the President of the Republic of South Africa (President) assented to the Bill on 19 September 2019 thereby bringing into promulgation the Films and Publications Amendment Act, 2019 (No. 11 of 2019) (Amendment Act).

The Amendment Act shall only come into operation however on a date fixed by the President by proclamation in the Government Gazette.

Acknowledging the demands and technological advances and the promulgation of the Amendment Act, it has become necessary to review and amend the Films and Publications Regulations, 2014, to be appropriately aligned with the constitutional values, aimed at protecting children against disturbing and harmful content, but also to make adequate provision for such technological advances, especially on online platforms.

On 27 February 2020 the Minister of Communications and Digital Technologies communicated her approval for the draft Films and Publications Amendment Regulations, 2020, to be published in the Government Gazette to secure public input to same.

Acknowledging the difficult period in the history of the country, amid the precautionary lockdown and social distancing measures imposed to mitigate against the spread of the COVID-19 virus, the publication of the Notice and the draft Films and Publications Amendment Regulations, 2020 in the Government Gazette could only take place on 3 July 2020.

The draft Films and Publications Amendment Regulations, 2020 seek to:

- a) Expand the objects of the Films and Publications Act, 1996 (Act No. 65 of 1996) (FP Act) to include the criminalization of the possession, production and distribution of child pornography and create offences for non-compliance with the FP Act;
- b) Align the definition of child pornography to the definition in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);
- c) Give effect to the constitutional amendments of section 16 (2)(a) as instructed by the Constitutional Court in *Prime Media v Minister of Home Affairs and another* (CCT 113/11);
- d) Acknowledging that the Amendment Act decriminalizes the online distribution of adult content on all platforms including digital platforms, the draft Regulations – Amendment Act should be aligned accordingly;
- e) Align the draft Regulations to the provisions of the Amendment Act which provide for the establishment of a co-regulation system that will allow for accreditation by the Film and Publication Board (FPB) of independent classification bodies to classify their own digital films, games and publications; and
- f) Allow for the lodging of complaints by any person about unclassified, prohibited content, or potential prohibited content in terms of services being offered online, the distribution of private sexual photographs and films and filming, and distribution of films and photographs depicting sexual violence and violence against children.

The Notice and the draft Films and Publications Amendment Regulations, 2020 may be accessed on the Film and Publication Board's website at www.fpb.org.za and social media accounts.

Interested persons who wish to comment on the draft Films and Publications Amendment Regulations, 2020 may submit their written representations, within 30 (thirty) days of the date of publication, namely, on or before **Monday, 17 August 2020**. Such written representations should be marked it for the attention of the Manager for Legal and Regulatory Affairs, Mr Pandelis Gregoriou, at the following contact details:

- a) By hand to the Film and Publication Board, Eco Glade 2, 420 Witch Hazel Avenue, Centurion, 1609;

- b) By post to the Film and Publication Board, Private Bag X31, Highveld Park, 0169; or
- c) By email to clientsupport@fpb.org.za (kindly write draft Film and Publication Regulations in the subject field of your email).

Should you have any enquiries please feel free to contact us on 012 003 1400.