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FILMS ACT
(CHAPTER 107)

FILMS
(PRESIDENTIAL ELECTION CAMPAIGN
RECORDINGS — EXEMPTION)
NOTIFICATION 2011

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In exercise of the powers conferred by section 40(2) of the Films Act, the Minister for Information, Communications and the Arts hereby makes the following Notification:

Citation and commencement

1. This Notification may be cited as the Films (Presidential Election Campaign Recordings — Exemption) Notification 2011 and shall come into operation on 2nd August 2011.

Definitions

2. In this Notification, unless the context otherwise requires —

“candidate”, “election” and “election agent” shall have the same respective meanings as in the Presidential Elections Act (Cap. 240A);

“distribute”, in relation to an election campaign recording, means the supply by electronic transmission (whether or not it is made in response to a request) of the contents of the election campaign recording —

(a) by electronic mail; or

(b) by micro-blog, an MMS or SMS service or an electronic media application or a social networking service,

and “distribution” shall be construed accordingly;

“election activity” means any activity —

(a) that takes place within any election period; and

(b) that is for the purpose of promoting or procuring the electoral success of one or more candidates at any election or otherwise enhancing the standing of any such candidates with the electorate in connection with any election;

“election campaign recording” means any film made on or after 2nd August 2011, whether or not made by or on behalf of a candidate —

(a) that records live the whole or a material proportion of any performance, assembly of persons or procession —

(i) which is held in accordance with the law;

(ii) which is held in connection with any election activity; and

(iii) which does not depict any event, person or situation in a dramatic way; and

(b) that consists of, or includes, the sounds and images of that performance, assembly or procession, without any additions, omissions, substitutions or other modifications,

but does not include any film that is wholly or substantially based on an unscripted or “reality”-type programme;

“election period”, in relation to an election, means the period —

- (a) beginning with the date a writ of election is issued for an election under the Presidential Elections Act; and
- (b) ending with the start of the eve of polling day of that election;

“electronic media application” includes —

- (a) any banner, logo or small icon that is capable of being posted on any social networking service, micro-blog, website or other form of electronic media; or
- (b) any other software or programme used in connection with a computer or other electronic device and which may be used for communicating or transmitting advertising among users in any format, such as but not limited to digital banners, RSS feed readers, widgets, mobile applications and other instant messaging software or programmes;

“exhibit”, in relation to an election campaign recording, means making the election campaign recording available on the Internet, but does not include —

- (a) distributing an election campaign recording; or
- (b) projecting or screening an election campaign recording at any public place within the meaning of the Public Order Act 2009 (Act 15 of 2009),

and “exhibition” shall be construed accordingly;

“micro-blog” means a web service that allows a user to post and send a short text message (ordinarily not exceeding 140 characters) that can be viewed by a selected group of persons or by anyone who uses the web service;

“MMS service” means a system that enables the transmission of visual communication, voice communication or electronic mail from a digital mobile telephone —

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- (a) to another digital mobile telephone; or
 - (b) to an electronic mail address, but does not include a message sent by micro-blog;

“modification”, in relation to any film that is a recording of the whole or a material proportion of a performance, an assembly or a procession referred to in the definition of “election campaign recording”, includes the doing, in relation to the performance, assembly or procession recorded, of anything that results in a material distortion of, the mutilation of, or a material alteration to, the performance, assembly or procession, but does not include a modification that consists of the addition or removal of material which provides a description or translation of the audio content of the film without any material distortion of, the mutilation of, or any material alteration to, the performance, assembly or procession recorded;

“SMS service” means a system that enables the transmission of short text messages from a digital mobile telephone to another digital mobile telephone;

“social networking service” means any online website or web service —

- (a) that allows users to create webpages or profiles providing information that can be viewed in whole or in part by other users; and
- (b) that enables or supports multiple-user digital communication, connection, social interaction or related activities.

Exemption from depositing in approved warehouse

3. Every person shall be exempt from section 12(1) of the Act in respect of any election campaign recording made during the election period of any election.

Exemption for possession of election campaign recording

4. Every person shall be exempt from sections 14 and 21(1) of the Act in respect of his possession (during the election period of any election or otherwise) of any election campaign recording.

Exemption for exhibition on Internet

5. Every person shall be exempt from section 21(1) of the Act in respect of —

- (a) his exhibiting on any site during the election period of any election any election campaign recording that records live the whole or a material proportion of any performance, assembly of persons or procession which is held in connection with any election activity connected with that same election; and
- (b) his continued exhibition on the same site, outside the election period of the election, of the same election campaign recording he had exhibited during that period in compliance with sub-paragraph (a),

if the act of exhibition itself does not contravene any provision of the Presidential Elections Act (Cap. 240A).

Exemption for distribution on Internet

6. Every person shall be exempt from section 21(1) of the Act in respect of his distributing, during or outside the election period of an election, any election campaign recording —

- (a) that records live the whole or a material proportion of any performance, assembly of persons or procession which is held in connection with any election activity connected with that same election; or
- (b) that is exhibited during the election period of the same election or an earlier election in accordance with paragraph 5,

if the act of distribution itself does not contravene any provision of the Presidential Elections Act (Cap. 240A).

Exemption for transient reproduction in the course of distribution, etc.

7. Every person shall be exempt from section 21(1) of the Act in respect of his making a temporary or transient reproduction of an election campaign recording if —

- (a) the reproduction is made incidentally as part of the technical process of —
 - (i) making an exhibition of the election campaign recording during the election period of any election in accordance with paragraph 5; or
 - (ii) making a distribution of the election campaign recording during or outside the election period in accordance with paragraph 6; or
- (b) the reproduction is made incidentally as part of the technical process of accessing an exhibition or receiving a distribution of the election campaign recording.

No exemption for unlawful films or unlawful publication

8. For the avoidance of doubt, this Notification —

- (a) shall not exempt from the provisions of the Act any party political film, any obscene film or any film prohibited under section 35 of the Act or any act in relation to any such film; and
- (b) shall not derogate from the effect of any of the provisions of the Presidential Elections Act (Cap. 240A) restricting or prohibiting the publication of any election advertising during the election period or on the polling day or eve of polling day at any election under that Act.

Made this 2nd day of August 2011.

CHAN YENG KIT
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Ministry of Information,
Communications and the Arts,
Singapore.*

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