

ACT RELATING TO THE PROTECTION OF MINORS AGAINST HARMFUL AUDIOVISUAL PROGRAMMES

UNOFFICIAL TRANSLATION

Chapter 1 Introductory provisions

Section 1 (*The objective of the Act*)

The objective of the Act is to protect minors against the harmful effects of exposure to moving images.

Section 2 (*Definitions*)

In this Act, the following terms shall have the following meanings:

- a) *minors*: persons under the age of 18
- b) *audiovisual programme*: a set of moving images, with or without sound, that constitutes a defined unit
- c) *videogram*: a disk, record, magnetic tape or other carrier of information containing stored information capable of reproducing an audiovisual programme
- d) *audiovisual programme distributor*: a person who holds, or has acquired, rights to make audiovisual programmes available to the general public in the Norwegian market
- e) *screening facility*: cinemas and other arenas for the public screening of audiovisual programmes
- f) *sales point*: a shop, website or similar point that sells tickets for screenings of audiovisual programmes or grants the general public access to physical videograms through sale or rental, etc.
- g) *seriously harmful content*: portrayals in audiovisual programmes that may have a strong emotionally harrowing effect or be particularly cognitively disturbing for minors, particularly intimate portrayals of sexual activity, gratuitous violence and other deeply disturbing or frightening themes
- h) *harmful content*: portrayals in audiovisual programmes that may have an emotionally harrowing or cognitively disturbing effect on minors

The Ministry may by regulation lay down more detailed rules on the interpretation of the definitions in this provision.

Section 3 (*Area of application*)

The Act applies to the making available of audiovisual programmes to the general public through:

- a) television and on- demand audiovisual services encompassed by the Act of 4 December 1992 No. 127 relating to broadcasting and on-demand audiovisual services

- b) screening at a public gathering in Norway, including at a cinema or other screening facility
- c) the making available of a videogram in Norway when
 - the audiovisual programme is made available by an enterprise that is registered in Norway or has its business address in Norway, or by a person who is a Norwegian citizen or is resident in Norway, or
 - the decision to make available is made in Norway.

The Ministry may issue regulations on the application of the Act to Svalbard and Jan Mayen, and may also introduce special rules that take account of local conditions.

Section 4 (*Industry bodies*)

The Ministry may by regulation delegate tasks under this Act to an industry body, including:

- a) the establishment of systems to ensure uniform age limits
- b) tasks associated with providing information on age limits
- c) if relevant, the development of pictograms to show age limits and target groups for audiovisual programmes.

The Ministry may by regulation lay down more detailed rules on the establishment and operation of the industry body and the relationship between the supervisory authority and the industry body.

Chapter 2 Protective measures

Section 5 (*Prohibition*)

Audiovisual programmes with seriously harmful content may not be broadcast on television.

Section 6 (*Age limits*)

An audiovisual programme may not be made available without being age-classified in accordance with the rules laid down in this provision.

During classification, audiovisual programmes shall be assigned one of the following age limits:

Alternative A:

- a) Permitted for all (“All”)
- b) 7 years
- c) 11 years
- d) 15 years
- e) 18 years

Alternative B:

- a) Permitted for all (“All”)
- b) 7 years
- c) 11 years
- d) 13 years
- e) 15 years
- f) 18 years

Alternative C:

- a) Permitted for all (“All”)
- b) 6 years
- c) 9 years
- d) 12 years
- e) 15 years
- f) 18 years

Classification shall be based on an assessment of whether the content of the audiovisual programme may be harmful to persons under the given age limit. Audiovisual programmes with seriously harmful content shall have an age limit of 18 years.

Section 7 (Setting of age limits for cinema films)

Age limits for cinema films shall be set by the Norwegian Media Authority following prior review. *Cinema films* shall mean audiovisual programmes that are primarily produced for screening in cinemas or other screening facilities.

An exemption from prior review shall apply to cinema films that:

- a) will be screened with an 18-year age limit
- b) will be shown during film festivals and similar cultural arrangements
- c) include locally produced material.

The Norwegian Media Authority shall not age-classify cinema films that the Authority considers to be in breach of section 204, section 204 a or section 382 of the General Civil Penal Code. If, during the course of its work, the Norwegian Media Authority becomes aware of an audiovisual programme that breaches section 204 a of the General Civil Penal Code, the matter shall be reported to the police.

The Ministry may by regulation introduce additional exemptions from the requirement for prior review.

Section 8 (Setting of age limits for other audiovisual programmes)

In the case of audiovisual programmes that are not subject to prior review pursuant to section 7, the age limit shall be set by the audiovisual programme distributor.

An exemption from the age-classification requirement in the first paragraph shall apply to audiovisual programmes that primarily contain:

- a) news and current affairs material

- b) educational and research material
- c) informational material about voluntary, political and/or religious activities
- d) music-related material
- e) sports-related material
- f) hobby-related, instructional and leisure-related material
- g) live broadcasts.

Age limits set pursuant to section 7 shall be followed in connection with all subsequent making available of the same audiovisual programme for a period of 10 years from the most recent decision date. Classification shall otherwise be undertaken on the basis of guidelines adopted by the Norwegian Media Authority.

The Norwegian Media Authority may by individual decision review age limits set by audiovisual programme distributors pursuant to this provision.

The Ministry may by regulation introduce additional exemptions from the requirements in this section and issue more detailed rules on the preparation of age-classification guidelines.

Section 9 (*Making available of other content in connection with an audiovisual programme*)

In connection with an audiovisual programme, no other content, including advertising and advertising for upcoming audiovisual programmes, may be made available that may be harmful to children under the age limit set for the audiovisual programme.

Section 10 (*Age control, etc.*)

Anyone who makes available audiovisual programmes classified pursuant to sections 7 and 8 shall implement suitable measures to ensure compliance with the age limits.

Measures to ensure compliance with age limits shall, as a minimum, include:

- a) *Television*: An audiovisual programme with harmful content may only be broadcast on television at times when minors generally cannot view or hear the broadcast, or if technical measures have been implemented to prevent minors from viewing or hearing the broadcast.
- b) *On-demand audiovisual services*: The service provider shall:
 - i. offer measures that can be activated by the recipient to prevent the reception of audiovisual programmes with harmful content
 - ii. implement measures to prevent the reception of audiovisual programmes with seriously harmful content.
- c) *Screening [at a public gathering]*: Screening and sales facilities shall develop and implement procedures for age control in connection with the making available of audiovisual programmes. If accompanied by a guardian, minors may be granted access to screenings of audiovisual programmes with age limits up to and including 15 years.
- d) *Making available of videograms*: Sales facilities shall develop and implement procedures for age control in connection with the making available of audiovisual programmes.

The Ministry may by regulation lay down more detailed rules on the duty to implement suitable measures pursuant to this section.

Section 11 (*Duty to provide information*)

Prior to the making available of an audiovisual programme, the general public shall be informed of the age limit in a clear and neutral manner.

Information about the age limit of the audiovisual programme shall, as a minimum, be made available in the following ways:

- a) *Television*: The service provider shall state the age limit when announcing the audiovisual programme. The service provider shall make the age limit available in programme schedules and electronic programme guides.
- b) *On-demand audiovisual services*: The service provider shall make the age limit available before an order can be finalised, as well as in presentations and descriptions of the audiovisual programme.
- c) *Screening [at a public gathering]*: Screening and sales facilities shall ensure that age limits for audiovisual programmes are specified in advertising and in connection with ticket purchases, and in information provided at each screening and sales facility.
- d) *Making available of videograms*: Audiovisual programme distributors shall ensure that the age limits for audiovisual programmes are clearly stated on the front cover of the videograms.

[Audiovisual programmes shall be marked in a suitable manner with a specification of the recommended target group. The audiovisual programme distributor shall determine the recommended target group.]

The Ministry may by regulation lay down more detailed rules on the duty to provide information, including exemptions and more detailed rules on marking and information, etc.

Chapter 3 Supervision and appeals, etc.

Section 12 (*Supervision*)

The Norwegian Media Authority shall conduct supervision to ensure compliance with the provisions laid down in or pursuant to this Act.

Section 13 (*Appeals*)

Appeals against individual decisions made by the Norwegian Media Authority under this Act shall be dealt with by the Norwegian Media Complaints Board. The Norwegian Media Complaints Board shall not have power to reverse decisions by the Norwegian Media Authority on its own initiative.

Audiovisual programme distributors and the Ombudsman for Children in Norway shall have the right to appeal against decisions concerning the age classification of cinema films made by the Norwegian Media Authority pursuant to section 7. [The rules in Chapter VI of the Public Administration Act shall otherwise apply.]

The Norwegian Media Complaints Board shall be appointed by the King. The Ministry shall appoint the chairperson and deputy chairperson of the Board. The Ministry may by regulation specify the size, composition, tasks, etc. of the Board.

Any legal proceedings shall be addressed to the State, represented by the Norwegian Media Complaints Board.

Section 14 (Limitations on the power of reversal and the power to issue instructions)

The Ministry shall not be permitted to instruct the Norwegian Media Authority in individual cases, or to reverse decisions made by the Norwegian Media Authority pursuant to this Act. The Ministry may order the Norwegian Media Authority to consider a case.

In cases involving matters of principle or matters of major social significance, the King in Council shall have power to reverse decisions made by the Norwegian Media Authority or the Norwegian Media Complaints Board in accordance with the provisions of section 35, second, third and fifth paragraphs, of the Public Administration Act.

Chapter 4 Concluding provisions

Section 15 (Duty to store and duty to deliver)

Audiovisual programme distributors shall have a duty to store an audiovisual programme for at least two months after the audiovisual programme was screened publicly for the first time or otherwise made available. If an appeal is made pursuant to section 13 the audiovisual programme shall be stored until the appeal has been settled. If notice is given that legal proceedings have been instituted, the audiovisual programme shall also be stored until the case has been settled with binding legal effect.

Audiovisual programme distributors shall deliver, upon request, audiovisual programmes pursuant to the first paragraph to the bodies responsible for supervising provisions laid down in or pursuant to this Act.

The Ministry may by regulation lay down more detailed rules on the duty to store and the duty to deliver, including who is covered by the obligation, how storage is to be effectuated and which bodies may demand delivery of the audiovisual programme.

Section 16 (Duty to provide information)

All persons are obliged to provide the Norwegian Media Authority with the information it requires to be able to perform its tasks pursuant to the Act or to meet Norway's agreement obligations to a foreign state or international organisation. Information may be demanded in written or oral form by a set deadline.

The Ministry may by regulation lay down more detailed provisions on the duty to provide information, including on who is covered by the duty to provide information and what information may be demanded.

Section 17 (Warning)

If this Act or provisions or conditions laid down pursuant to this Act are contravened, the Norwegian Media Authority may issue a warning to the person responsible for the contravention.

Section 18 (*Contravention penalty*)

In the event of contravention of provisions laid down in or pursuant to this Act, or of individual decisions made pursuant to such provisions, the Norwegian Media Authority may impose a contravention penalty on the person responsible for the contravention, payable to the State and calculated in accordance with more detailed rules laid down by the Ministry.

The Ministry may introduce rules on higher penalties in the event of repeated contravention. In special cases, the Norwegian Media Authority may waive imposed penalties, including interest.

Imposed contravention penalties provide grounds for the seizure of assets. The Ministry may introduce more detailed rules on the imposition of contravention penalties, including on recovery procedures and payment deadlines. It may be decided that interest shall be paid on an imposed contravention penalty.

Section 19 (*Coercive fine*)

To ensure compliance with obligations laid down in or pursuant to this Act, the Norwegian Media Authority may impose a coercive fine on the person responsible.

The coercive fine may take the form of an accruing fine or a fixed penalty. In the case of an accruing fine, the Norwegian Media Authority may decide whether the fine is to be set per day, week or month. The accruing coercive fine shall begin to accrue one week after the decision to impose a coercive fine has been made, or from a separately specified deadline for compliance with the obligation if this deadline has expired without compliance with the obligation. In the case of a fixed-penalty coercive fine, the Norwegian Media Authority may decide that the fine shall fall due for payment on a separately specified deadline for performance of the obligation if this deadline has expired without compliance with the obligation.

Coercive fines shall be paid into the public purse, and provide grounds for seizure of assets.

In special cases, the Norwegian Media Authority may reduce or waive accrued coercive fines, including interest.

The Ministry may by regulation introduce more detailed provisions on the imposition of coercive fines, including on the conditions for coercive fines and on the size of coercive fines and interest in the event of late payment.

Section 20 (*Penalties*)

Anyone who intentionally or negligently contravenes section 6 of this Act or a related regulatory provision or individual decisions made pursuant to this provision shall be punished by fines or a term of imprisonment of up to three months. Complicity shall be punished in the same way.

Contravention of the penal provision in this section shall constitute a misdemeanour.

Section 21 (*Entry into force*)

This Act shall enter into force on the date determined by the King.