



Australian Capital Territory

Film Classification Act 1971

A1971-25

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About this republication

The republished law

This is a republication of the *Film Classification Act 1971* effective 28 May 1993 to 1 January 1996.

Kinds of republications

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- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

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Australian Capital Territory
FILM CLASSIFICATION ACT 1971

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

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An Act relating to the conditions subject to which Films may be Exhibited

Short title

1. This Act may be cited as the *Film Classification Act 1971*.¹

Commencement

2. This Act shall come into operation on a date to be fixed by the Minister by notice published in the *Gazette*.¹

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“advertising matter”, in relation to a film, means—

- (a) a trailer or any extract from, or part of, the film; or
- (b) a poster, photograph, sketch, programme, slide or printed matter,

used for, or prepared for the purpose of, giving publicity to the film;

“Chief Censor” has the same meaning as in the Customs (Cinematograph Films) Regulations of the Commonwealth;

“exhibit”, in relation to a film, means exhibit the images of the film by means of a cinematograph, and “exhibition” has a corresponding meaning;

“film” means a roll or tape containing successive images produced by photographic means and capable of being exhibited by means of a cinematograph;

“the former State Act” means the Theatres and Public Halls Act, 1908 of the State of New South Wales;

“the prescribed date” means the date of commencement of the Theatres and Public Halls and Cinematograph Films (Amendment) Act, 1971 of the State of New South Wales;

“the State Act” means the Film and Video Tape Classification Act, 1984 of the State of New South Wales or that Act as amended and in force for the time being.

(2) In this Act, a reference to a classification assigned to a film under the State Act shall be read as including a reference to a classification that is, by virtue of section 3A, to be deemed to have been assigned to a film under the State Act.

Classification of certain films

3A. Where a film was registered under section 26H of the former State Act and that registration was in force immediately before the commencement of the *Film Classification (Amendment) Act 1985*—

- (a) the film shall be deemed to have been classified under the State Act; and
- (b) the film shall be deemed to have been so classified—

- (i) if the film had been classified “for general exhibition” under the former State Act—as a “G” film;
- (ii) if the film had been classified “not recommended for children” under the former State Act—as a “PG” film;
- (iii) if the film had been classified “for mature audiences” under the former State Act—as an “M” film; and
- (iv) if the film had been classified “for restricted exhibition” under the former State Act—as an “R” film.

Prohibition of exhibition of certain films

4. (1) The exhibition of a film to persons on payment of a charge or on presentation of a ticket or other token is prohibited unless—

- (a) the film has been classified under the State Act;
- (b) the film is exhibited—
 - (i) under the name under which it was so classified; and
 - (ii) in the form, without alteration or addition, in which it was so classified; and
- (c) where, in the case of a film to which this section applies by virtue of subsection (3), the film was registered under the former State Act subject to conditions—those conditions are complied with.

(2) The exhibition of a film classified under the State Act to persons on payment of a charge or on presentation of a ticket or other token is prohibited if—

- (a) the classification of the film has been revoked under the State Act; or
- (b) an order that the film be withdrawn from exhibition is in force under the State Act.

(3) For the purposes of this section, a film shall be taken to have been classified under the State Act if the film is a film that is, by virtue of section 3A, to be deemed to have been classified under the State Act.

Exempt films

4A. (1) Subsection 4 (1) does not apply in relation to an exempt film.

(2) The Minister may, by instrument, declare that a film that has been exempted under subsection 38 (2) of the Film and Video Classification Act,

1984 of the State of New South Wales as amended and in force from time to time is an exempt film for the purposes of this section.

(3) The Minister may delegate his or her power under subsection (2) to the Chief Censor.

(4) In this section, “exempt film” means a film specified in a declaration under subsection (2).

Display of information about classification

5. (1) This section applies to—

- (a) a film that has been classified under the State Act; and
- (b) a film that is, by virtue of section 3A, to be deemed to have been classified under the State Act, being a film that was registered under the former State Act after the prescribed date.

(2) The exhibition of a film to which this section applies to persons on payment of a charge or on presentation of a ticket or other token is prohibited unless, at the commencement of the exhibition of the film, there is exhibited an image that bears the determined markings displayed in the determined form and manner.

(3) The publication, by any means whatsoever, of advertising matter relating to a film to which this section applies is prohibited unless the advertising matter bears the determined markings in relation to the film displayed—

- (a) in the determined form and manner in relation to that type of advertising matter; and
- (b) so that they are clearly visible, having regard to the size and nature of the advertising matter.

(4) The Chief Censor shall determine, by notice published in the *Gazette*—

- (a) markings for the purposes of this section; and
- (b) the form and manner of display of those markings—
 - (i) for the purposes of subsection (2)—in the relevant image of the film; and
 - (ii) for the purposes of subsection (3)—in the relevant advertising matter, in relation to different types of advertising matter;

in relation to different classifications under the State Act.

(5) In this section—

“determined form and manner”, in relation to a film, or to advertising matter in relation to a film, means the form and manner determined under paragraph (4) (b) in relation to the classification given to that film;

“determined markings”, in relation to a film, means the markings determined under paragraph (4) (a) in relation to the classification given to that film.

Penalty for exhibiting film in contravention of this Act

6. Where a film is exhibited in contravention of section 4 or 5 of this Act, the person who conducts the exhibition of the film and the person who has the management and control of the place at which the film is exhibited are each guilty of an offence against this Act and are liable, on conviction, to a penalty not exceeding One hundred dollars.

Penalty for publishing advertising matter in contravention of section 5

7. Where advertising matter in relation to a film is published in contravention of subsection (3) of section 5 of this Act, the person who caused the advertising matter to be published is guilty of an offence against this Act and is liable, on conviction, to a penalty not exceeding One hundred dollars.

Admission of persons to “R” films

8. (1) This section applies to—

- (a) a film that has been classified under the State Act as an “R” film; and
- (b) a film that is, by virtue of section 3A, to be deemed to have been classified under the State Act as an “R” film, being a film that was registered under the former State Act after the prescribed date.

(2) Where—

- (a) a film to which this section applies is, or is about to be, exhibited to persons on payment of a charge or on presentation of a ticket or other token; and
- (b) a person whose age is between two years and eighteen years is in a place from which the exhibition of the film is, or will be, capable of being seen,

the person who has the management of the place at which the film is, or is about to be, exhibited is guilty of an offence against this Act and is liable on conviction to a penalty not exceeding Fifty dollars.

(3) It is a defence to a prosecution for an offence against the last preceding subsection if it is proved that—

- (a) the person charged with the offence took reasonable precautions designed to ensure that persons whose ages were between two years and eighteen years were not admitted to the exhibition; and
- (b) the person named in the charge as being the person whose age was, on the relevant date, between two years and eighteen years might be believed, on reasonable grounds, to have been of an age other than an age between those ages.

(4) For the purposes of this section, a person is a person whose age is or was, on a specified date, between two years and eighteen years if that person has or had, on that date, attained the age of two years and has or had, on that date, not attained the age of eighteen years.

Admission of persons to “MA” films

9. (1) In this section—

“ ‘MA’ film” means a film classified as such under the State Act;

“young person”, in relation to an alleged offence under subsection (2), means a person who had attained 2 years of age but who had not yet attained 15 years of age at the time the offence is alleged to have been committed.

(2) Where—

- (a) an “MA” film is, or is about to be, exhibited to persons on payment of a charge or on presentation of a ticket or other token;
- (b) a young person is in a place from which the exhibition of the film is, or will be, capable of being seen; and
- (c) that person is not accompanied by his or her parent or guardian;

the person who has the management of the place at which the film is, or is about to be, exhibited is guilty of an offence.

Penalty: \$500.

(3) It is a defence to a prosecution for an offence against subsection (2) if it is proved that—

- (a) the person charged with the offence took reasonable precautions to ensure that young persons were not admitted to the exhibition unaccompanied by their parents or guardians; or
- (b) the young person named in the charge appeared to be younger than 2 years of age, or 15 years of age or older, at the time the offence is alleged to have been committed.

(4) It is a defence to a prosecution for an offence against subsection (2) if it is proved that the young person named in the charge was accompanied, at the time the offence is alleged to have been committed, by a person who appeared to be the young person's parent or guardian.

Evidentiary provisions

10. A document or certificate that purports to be a document or certificate that is, in proceedings in a court in the State of New South Wales for an offence against the State Act, evidence of a matter stated in the document or certificate, is, in proceedings for an offence against this Act, evidence of the matter stated in the document or certificate.

NOTE

1. The *Film Classification Act 1971* as shown in this reprint comprises Act No. 25, 1971 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

Table of Ordinances

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Film Classification Ordinance 1971</i>	25, 1971	22 Oct 1971	15 Nov 1971 (see <i>Gazette</i> 1971, p. 6967)	
<i>Film Classification Ordinance 1972</i>	14, 1972	27 Apr 1972	27 Apr 1972	—
<i>Film Classification Ordinance 1974</i>	10, 1974	9 Apr 1974	9 Apr 1974	—
<i>Film Classification (Amendment) Ordinance 1985</i>	7, 1985	1 Mar 1985	1 Mar 1985	—

Self-Government day 11 May 1989

Table 2

Table of Acts

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Film Classification (Amendment) Act 1989</i>	8, 1989	11 Aug 1989	11 Aug 1989	—
<i>Film Classification (Amendment) Act 1991</i>	45, 1991	20 Sept 1991	20 Sept 1991	—
<i>Film Classification (Amendment) Act 1993</i>	27, 1993	21 May 1993	Ss. 1-3: 21 May 1993 Remainder: 28 May 1993 (see <i>Gazette</i> 1993, No. S94)	—

NOTE—continued

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 3	am. No. 7, 1985; Act No. 45, 1991
S. 3A	ad. No. 7, 1985
S. 4	rs. No. 7, 1985
S. 4A	ad. Act No. 45, 1991
S. 5	am. No. 7, 1985; Act No. 8, 1989; No. 45, 1991
S. 8	am. No. 14, 1972; No. 10, 1974; No. 7, 1985
S. 9	am. No. 7, 1985 rep. Act No. 8, 1989 ad. No. 27, 1993

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