



Australian Capital Territory

# **Classification (Publications, Films and Computer Games) (Enforcement) Act 1995**

**A1995-47**

**Republication No 14**

**Effective: 19 February 2009 – 30 June 2009**

Republication date: 19 February 2009

Last amendment made by A2009-3

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 19 February 2009. It also includes any amendment, repeal or expiry affecting the republished law to 19 February 2009.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

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

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

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Australian Capital Territory

# **Classification (Publications, Films and Computer Games) (Enforcement) Act 1995**

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An Act to provide for the enforcement of a scheme of classification of publications, films and computer games, and for other purposes

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R14  
19/02/09

Classification (Publications, Films and Computer Games)  
(Enforcement) Act 1995

page 1

Effective: 19/02/09-30/06/09

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*exempt film*—see the Commonwealth Act, section 5 (Definitions).' means that the term 'exempt film' is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

### 4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms

used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2* *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## **5** **Exhibition of film**

For this Act, a person is taken to *exhibit* a film in a public place if the person—

- (a) arranges or conducts the exhibition of the film in the public place; or
- (b) has the superintendence or management of the public place in which the film is exhibited.

## **5A** **Films consisting only of classified films**

- (1) This section applies to a film that—
  - (a) is on 1 device; and
  - (b) consists only of 2 or more classified films.
- (2) Despite any other provision of this Act, the film is to be treated, for this Act, as if each of the classified films were on a separate device.

## **6** **Application of Act**

This Act does not apply to—

- (a) broadcasting services to which the *Broadcasting Services Act 1992* (Cwlth) applies; or
- (b) exempt films or exempt computer games.

## **Part 2** Films

### **Division 2.1** Exhibition of films

#### **7** Exhibition of film in public place

- (1) A person commits an offence if—
- (a) the person exhibits a film in a public place; and
  - (b) the film is not classified.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person exhibits a classified film in a public place—
- (a) with a title other than the title under which the film is classified; or
  - (b) in a form other than the form in which the film is classified.

Maximum penalty: 50 penalty units.

- (3) A person does not commit an offence against subsection (2) in relation to a classified film if either or both of the following apply:
- (a) the film—
    - (i) is exhibited under a title different from that under which it is classified; and
    - (ii) is contained on 1 device that consists only of 2 or more classified films;
  - (b) the classified film is exhibited with modifications mentioned in the Commonwealth Act, section 21 (2).

**8 Exhibition of films—display of notice about classifications**

- (1) A person commits an offence if—
- (a) the person exhibits a film in a public place; and
  - (b) the person does not display a notice—
    - (i) in the approved form about classifications for films; and
    - (ii) in the public place so that the notice is clearly visible to the public.

Maximum penalty: 5 penalty units.

*Note* The notice is approved by the director of the board (see dict, def *approved form*).

- (2) An offence against this section is a strict liability offence.

**9 Exhibition of RC and X 18+ films**

- (1) A person commits an offence if—
- (a) the person exhibits a film in a public place; and
  - (b) the film is classified RC.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
- (a) the person exhibits a film in a public place; and
  - (b) the film is classified X 18+; and
  - (c) the public place is not a restricted publications area that is located in premises in an area prescribed by regulation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**10                    Exhibition of unclassified, RC, X 18+, R 18+ and MA 15+ films**

- (1) A person commits an offence if—
- (a) the person exhibits a film somewhere that is not a controlled space for exhibiting the film; and
  - (b) the film is—
    - (i) classified RC, X 18+, R 18+ or MA 15+; or
    - (ii) an unclassified film; and
  - (c) for an unclassified film—the film is subsequently classified RC, X 18+, R 18+ or MA 15+.

Maximum penalty:

- (a) for a film classified RC, or an unclassified film that is subsequently classified RC—100 penalty units, imprisonment for 1 year or both; or
  - (b) for a film classified X 18+, or an unclassified film that is subsequently classified X 18+—50 penalty units, imprisonment for 6 months or both; or
  - (c) for a film classified MA 15+ or R 18+, or an unclassified film that is subsequently classified MA 15+ or R 18+—20 penalty units.
- (2) Absolute liability applies to subsection (1) (c).
- (3) This section does not apply if the film is an unclassified film and the person does not believe, and has no reasonable grounds for believing, that the film would be classified RC, X 18+, R 18+ or MA 15+.
- (4) In this section:

***controlled space***, for exhibiting a film, means a space where the person exhibiting the film—

- (a) can prevent someone entering the space; and
- (b) can prevent the film being seen from outside the space.

**11 Attendance of child at certain films—offence by parents etc**

- (1) A person commits an offence if—
  - (a) the person is a parent or guardian of a child; and
  - (b) the person permits the child to attend the exhibition of a film in a public place; and
  - (c) the person knows the film is—
    - (i) classified RC, X 18+ or R 18+; or
    - (ii) an unclassified film; and
  - (d) for an unclassified film—the film is subsequently classified RC, X 18+ or R 18+.

Maximum penalty: 20 penalty units.

- (2) Absolute liability applies to subsection (1) (d).
- (3) This section does not apply if the film is an unclassified film and the person does not believe, and has no reasonable grounds for believing, that the film would be classified RC, X 18+ or R 18+.

**12 Attendance of child at certain films—offence by child**

A child commits an offence if—

- (a) the child is 15 years old or older; and
- (b) the child attends the exhibition of a film in a public place; and
- (c) the child knows the film is classified X 18+ or R 18+.

Maximum penalty: 5 penalty units.

### **13 Private exhibition of certain films in presence of child**

- (1) A person commits an offence if—
- (a) the person exhibits a film in a place other than a public place; and
  - (b) a child is present during any part of the exhibition; and
  - (c) the film is—
    - (i) classified RC, X 18+ or R 18+; or
    - (ii) an unclassified film; and
  - (d) for an unclassified film—the film is subsequently classified RC, X 18+ or R 18+.

Maximum penalty:

- (a) for a film classified RC, or an unclassified film that is subsequently classified RC—50 penalty units, imprisonment for 6 months or both; or
  - (b) for a film classified X 18+, or an unclassified film that is subsequently classified X 18+—50 penalty units; or
  - (c) for a film classified R 18+, or an unclassified film that is subsequently classified R 18+—20 penalty units.
- (2) Absolute liability applies to—
- (a) the circumstance that the person present is a child; and
  - (b) subsection (1) (d).
- (3) This section does not apply if—
- (a) the person is a parent or guardian of the child; or
  - (b) the film is an unclassified film and the person does not believe, and has no reasonable grounds for believing, that the film would be classified RC, X 18+ or R 18+.



- (4) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant believed, on reasonable grounds, that the child was an adult.

**14 Attendance of child at R 18+ film—offence by exhibitor**

- (1) A person commits an offence if—
- (a) the person exhibits a film in a public place; and
  - (b) the film is classified R 18+; and
  - (c) a child is present during any part of the exhibition.

Maximum penalty: 50 penalty units.

- (2) Strict liability applies to subsection (1) (b).
- (3) Absolute liability applies to the circumstance that the person present is a child.
- (4) It is a defence to a prosecution for an offence against this section if the defendant proves that—
- (a) the child produced to the defendant acceptable proof of age before the child was admitted to the public place; and
  - (b) the defendant believed, on reasonable grounds, that the child was an adult.

**15 Attendance of child at MA 15+ film—offence by exhibitor**

- (1) A person commits an offence if—
- (a) the person exhibits a film in a public place; and
  - (b) the film is classified MA 15+; and
  - (c) a child under 15 years old is present during any part of the exhibition; and

(d) the child is not accompanied by a parent or guardian of the child.

Maximum penalty: 10 penalty units.

- (2) For subsection (1), a child does not stop being accompanied if the parent or guardian is temporarily absent from the exhibition of the film.
- (3) Strict liability applies to subsection (1) (b).
- (4) Absolute liability applies to the circumstance that the person present is a child under 15 years old.
- (5) It is a defence to a prosecution for an offence against this section if the defendant proves that—
  - (a) the defendant took all reasonable steps to ensure that the child was not present in contravention of subsection (1); or
  - (b) the defendant believed, on reasonable grounds, that the child was 15 years old or older; or
  - (c) the defendant believed, on reasonable grounds, that the person accompanying the child was the child's parent or guardian.

## **Division 2.2 Sale of films**

### **16 Unclassified and RC films**

A person commits an offence if—

- (a) the person sells a film; and
- (b) the film is an unclassified film or a film classified RC.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

## **17 Classified films**

- (1) A person commits an offence if the person sells a classified film—
- (a) with a title other than the title under which the film is classified; or
  - (b) in a form other than the form in which the film is classified.

Maximum penalty: 50 penalty units.

- (2) A person does not commit an offence against subsection (1) in relation to a classified film if either or both of the following apply:
- (a) the film—
    - (i) is sold under a title different from that under which it is classified; and
    - (ii) is contained on 1 device that consists only of 2 or more classified films;
  - (b) the film is sold with modifications mentioned in the Commonwealth Act, section 21 (2).

## **18 Sale of films—display of notice about classifications**

- (1) A person commits an offence if—
- (a) the person sells a film at any premises; and
  - (b) the person does not display a notice—
    - (i) in the approved form about classifications for films; and
    - (ii) in the premises so that the notice is clearly visible to the public.

Maximum penalty: 5 penalty units.

*Note* The notice is approved by the director of the board (see dict, def *approved form*).

- (2) An offence against this section is a strict liability offence.

## 19 Films to display determined markings and consumer advice

- (1) A person commits an offence if—
- (a) the person sells a film; and
  - (b) the container, wrapping or casing of the film does not have displayed on it—
    - (i) the determined markings relevant to the film's classification; and
    - (ii) if there is current consumer advice for the film—the consumer advice.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
- (a) the person sells an unclassified film; and
  - (b) the container, wrapping or casing in which the film is sold displays a marking that suggests that the film has been classified.

Maximum penalty: 30 penalty units.

- (3) A person commits an offence if—
- (a) the person sells a classified film; and
  - (b) the container, wrapping or casing in which the film is sold displays a marking that suggests that the film is unclassified or has a different classification.

Maximum penalty: 30 penalty units.

- (4) Subsection (5) applies if—
- (a) a film is reclassified under the Commonwealth Act, section 39 (Reclassification etc after 2 years) or section 97A (Reclassification); or

- (b) the board revokes a classification or consumer advice for a film under the Commonwealth Act.
- (5) A person does not commit an offence against this section in relation to the film during the 30-day period after the decision to reclassify or revoke takes effect, if the film displays the determined markings and consumer advice (if any) applying to the film before the reclassification or revocation.
- (6) An offence against this section is a strict liability offence.

**20 Possessing unclassified or RC films and other films at certain premises**

- (1) A person commits an offence if—
  - (a) the person possesses an unclassified film or a film classified RC at any premises; and
  - (b) classified films are sold at the premises.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
  - (a) the person is the occupier of premises; and
  - (b) someone else possesses an unclassified film or a film classified RC at the premises; and
  - (c) classified films are sold at the premises.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) In this section:

*possess* a film includes—

- (a) have control over the disposition of the film (whether or not having custody of the film); and

(b) have joint possession of the film.

**21            Display of X 18+ films for sale**

A person commits an offence if—

- (a) the person displays a film classified X 18+ for sale; and
- (b) the place where the film is displayed for sale is not a restricted publications area that is located in premises in an area prescribed by regulation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**22            Sale of X 18+ films**

(1) A person commits an offence if—

- (a) the person sells a film classified X 18+ to someone else; and
- (b) the other person has not made a direct request for the film.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) A person commits an offence if the person sells a film classified X 18+ that is not contained in a package made of opaque material.

Maximum penalty: 30 penalty units.

(3) An offence against subsection (2) is a strict liability offence.

(4) A person commits an offence if—

- (a) the person sells or copies a film classified X 18+; and
- (b) the sale or copying is not done in accordance with a licence under part 6.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**23 Sale or delivery of certain films to child**

- (1) A person commits an offence if—
- (a) the person sells or delivers a film to a child; and
  - (b) the film is—
    - (i) classified RC; or
    - (ii) an unclassified film; and
  - (c) for an unclassified film—the film is subsequently classified RC.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Absolute liability applies to—
- (a) the circumstance that the person to whom the film is sold or delivered is a child; and
  - (b) subsection (1) (c).
- (3) Subsection (1) does not apply if the film is an unclassified film and the person does not believe, and has no reasonable grounds for believing, that the film would be classified RC.
- (4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—
- (a) the child produced to the defendant acceptable proof of age before the defendant sold or delivered the film to the child; and
  - (b) the defendant believed, on reasonable grounds, that the child was an adult.
- (5) A person commits an offence if—
- (a) the person sells or delivers a film to a child; and
  - (b) the film is—

- (i) classified X 18+ or R 18+; or
- (ii) an unclassified film; and
- (c) for an unclassified film—the film is subsequently classified X 18+ or R 18+.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (6) Absolute liability applies to—
  - (a) the circumstance that the person to whom the film is sold or delivered is a child; and
  - (b) subsection (5) (c).
- (7) Subsection (5) does not apply if—
  - (a) the person is the parent or guardian of the child; or
  - (b) the film is an unclassified film and the person does not believe, and has no reasonable grounds for believing, that the film would be classified X 18+ or R 18+.
- (8) It is a defence to a prosecution for an offence against subsection (5), if the defendant proves—
  - (a) that—
    - (i) the child produced to the defendant acceptable proof of age before the defendant sold or delivered the film to the child; and
    - (ii) the defendant believed, on reasonable grounds, that the child was an adult; or
  - (b) for the delivery of a film classified R 18+—the child was employed by the defendant or the defendant’s employer and the delivery took place in the course of that employment.
- (9) A person commits an offence if—



- (a) the person sells or delivers a film to a child under 15 years old; and
- (b) the film is—
  - (i) classified MA 15+; or
  - (ii) an unclassified film; and
- (c) for a film that is unclassified—the film is subsequently classified MA 15+.

Maximum penalty: 10 penalty units.

- (10) Absolute liability applies to—
  - (a) the circumstance that the person to whom the film is sold or delivered is under 15 years old; and
  - (b) subsection (9) (c).
- (11) Subsection (9) does not apply if—
  - (a) the person is the parent or guardian of the child; or
  - (b) the film is an unclassified film and the person does not believe, and has no reasonable grounds for believing, that the film would be classified MA 15+.
- (12) It is a defence to a prosecution for an offence against subsection (9) if the defendant proves that the defendant believed, on reasonable grounds, that—
  - (a) the child was 15 years old or older; or
  - (b) a parent or guardian of the child had consented to the sale or delivery.

## **24 Buying certain films—offence by child**

A child commits an offence if—

- (a) the child is 15 years old or older; and

- (b) the child buys a film; and
- (c) the child knows the film is classified X 18+ or R 18+.

Maximum penalty: 5 penalty units.

## **Division 2.3            Miscellaneous**

### **25            Power to ask name, age and address**

- (1) A police officer may require a person to state the person's name, age and address if the police officer has reasonable grounds for believing that—
  - (a) a film is being or is about to be exhibited, sold or delivered to the person; and
  - (b) the person has committed or is about to commit an offence against section 12 (Attendance of child at certain films—offence by child) or section 24 (Buying certain films—offence by child); and
  - (c) the person is under 18 years old.
- (2) A person commits an offence if the person fails to comply with a requirement made of the person under subsection (1).

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

### **26            Leaving films in certain places**

- (1) A person commits an offence if—
  - (a) the person leaves a film in a public place or, without the occupier's permission, at private premises; and
  - (b) the film is—
    - (i) classified RC, X 18+, R 18+ or MA 15+; or

- (ii) an unclassified film; and
- (c) for an unclassified film—the film is subsequently classified RC, X 18+, R 18+ or MA 15+.

Maximum penalty:

- (a) for a film classified RC, or an unclassified film that is subsequently classified RC—100 penalty units, imprisonment for 1 year or both; or
  - (b) for a film classified X 18+, or an unclassified film that is subsequently classified X 18+—50 penalty units, imprisonment for 6 months or both; or
  - (c) for a film classified R 18+ or MA 15+, or an unclassified film that is subsequently classified R 18+ or MA 15+—20 penalty units.
- (2) Absolute liability applies to subsection (1) (c).
  - (3) This section does not apply if the film is an unclassified film and the person does not believe, and has no reasonable grounds for believing, that the film would be classified RC, X 18+, R 18+ or MA 15+.

## **27 Possessing or copying film**

- (1) A person commits an offence if—
  - (a) the person possesses—
    - (i) a film classified RC; or
    - (ii) an unclassified film; and
  - (b) the person intends to sell or exhibit the film.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Subsection (1) does not apply if the person possesses the film for classification or law enforcement.
- (3) A person commits an offence if—
  - (a) the person copies a film; and
  - (b) the film is—
    - (i) classified RC; or
    - (ii) an unclassified film; and
  - (c) the person intends to sell or exhibit the film.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (4) Subsection (3) does not apply if the person copies the film for classification or law enforcement.
- (5) If, in a prosecution for an offence against subsection (3), it is proved that the defendant made 10 or more copies of a film classified RC, or an unclassified film, it is presumed, unless the contrary is proved, that the defendant intended to sell or exhibit the film.

## Part 3 Publications

### 28 Sale of unclassified RC publications

- (1) A person commits an offence if—
- (a) the person sells or delivers a submittable publication; and
  - (b) the person knows that the publication is a submittable publication.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
- (a) the person sells or delivers a publication classified RC; and
  - (b) the person knows that the publication is a publication classified RC.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) This section does not apply if—
- (a) the person sells or delivers the publication for classification or law enforcement; or
  - (b) the publication was a submittable publication and, since the offence was alleged to have been committed, the publication has been classified unrestricted.

### 29 Category 1 restricted publications

- (1) A person commits an offence if—
- (a) the person sells or delivers a publication classified category 1 restricted; and

- (b) the publication—
  - (i) does not display the determined markings; or
  - (ii) is not contained in a sealed package; and
- (c) if the publication is contained in a package made of opaque material—the package does not display the determined markings.

Maximum penalty: 30 penalty units.

- (2) However, subsection (1) (b) (ii) does not apply to the sale or delivery of the publication if—
  - (a) the sale or delivery takes place in a restricted area; and
  - (b) on delivery, the publication is contained in a package made of opaque material; and
  - (c) the conditions (if any) imposed by the board under the Commonwealth Act, section 13A (2) (Conditions of certain classifications for publications) are complied with.
- (3) An offence against this section is a strict liability offence.
- (4) Subsection (5) applies if—
  - (a) a publication is reclassified under the Commonwealth Act, section 39 (Reclassification etc after 2 years) or section 97A (Reclassification); or
  - (b) the board revokes a classification for a publication under the Commonwealth Act, section 22B (3) (Classification of a publication, film or computer game that may be the same as or similar to a classified item).
- (5) A person does not commit an offence against this section in relation to the publication during the 30-day period after the decision to reclassify or revoke takes effect, if the publication displays the determined markings and consumer advice (if any) applying to the publication before the reclassification or revocation.

**30 Category 2 restricted publications**

- (1) A person commits an offence if—
- (a) the person displays a publication that is classified category 2 restricted at a place; and
  - (b) the place is not a restricted publications area.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
- (a) the person delivers a publication that is classified category 2 restricted to someone else; and
  - (b) the other person has not made a direct request for the publication.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A person commits an offence if—
- (a) the person delivers a publication that is classified category 2 restricted to someone else; and
  - (b) the publication is not contained in a package made of opaque material.

Maximum penalty: 30 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.

- (5) A person commits an offence if—
- (a) the person publishes a publication that is classified category 2 restricted; and
  - (b) the publication does not display the determined markings.

Maximum penalty: 30 penalty units.

- (6) An offence against subsection (5) is a strict liability offence.
- (7) Subsection (8) applies if—
  - (a) a publication is reclassified under the Commonwealth Act, section 39 (Reclassification etc after 2 years) or section 97A (Reclassification); or
  - (b) the board revokes a classification for a publication under the Commonwealth Act, section 22B (3) (Classification of a publication, film or computer game that may be the same as or similar to a classified item).
- (8) A person does not commit an offence against this section in relation to the publication during the 30-day period after the decision to reclassify or revoke takes effect, if the publication displays the determined markings and consumer advice (if any) applying to the publication before the reclassification or revocation.

### **31 Sale or delivery of publications contrary to conditions**

- (1) A person commits an offence if—
  - (a) a publication is classified unrestricted or category 1 restricted; and
  - (b) the classification is subject to a condition imposed under the Commonwealth Act, section 13A (Conditions of certain classifications for publications); and
  - (c) the person sells or delivers the publication; and
  - (d) the sale or delivery is not in accordance with the condition.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

### **32 Consumer advice for unrestricted publications**

- (1) A person commits an offence if—



- (a) the board has determined consumer advice for a publication classified unrestricted under the Commonwealth Act, section 20 (2) (Board to decide consumer advice for publications, films and computer games); and
- (b) the person sells the publication; and
- (c) the consumer advice is not displayed on the publication or the packaging of the publication.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

### **33 Publications classified unrestricted**

- (1) A person commits an offence if—
  - (a) the person sells, delivers or publishes a publication classified unrestricted; and
  - (b) the publication does not display the determined markings.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

### **34 Misleading or deceptive markings**

- (1) A person commits an offence if—
  - (a) the person publishes an unclassified publication with a marking, or in packaging with a marking; and
  - (b) the marking indicates or suggests that the publication has been classified.

Maximum penalty: 30 penalty units.

- (2) A person commits an offence if—
  - (a) the person publishes a classified publication with a marking, or in packaging with a marking; and

- (b) the marking indicates or suggests that the publication is unclassified or has a different classification.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) Subsection (5) applies if—
  - (a) a publication is reclassified under the Commonwealth Act, section 39 (Reclassification etc after 2 years) or section 97A (Reclassification); or
  - (b) the board revokes a classification for a publication under the Commonwealth Act, section 22B (3) (Classification of a publication, film or computer game that may be the same as or similar to a classified item).
- (5) A person does not commit an offence against this section in relation to the publication during the 30-day period after the decision to reclassify or revoke takes effect, if the publication displays the determined markings and consumer advice (if any) applying to the publication before the reclassification or revocation.

### **35 Sale of restricted publications to child**

- (1) A person commits an offence if—
  - (a) the person sells or delivers a publication to a child; and
  - (b) the publication is classified RC or is a submittable publication.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Absolute liability applies to the circumstance that the person to whom the publication is sold or delivered is a child.
- (3) Subsection (1) does not apply if—
  - (a) the person is a parent or guardian of the child; or

- (b) the publication was a submittable publication and, since the offence was alleged to have been committed, the publication has been classified unrestricted.
- (4) A person commits an offence if—
- (a) the person sells or delivers a publication to a child; and
  - (b) the publication is classified category 1 restricted or category 2 restricted.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (5) Absolute liability applies to the circumstance that the person to whom the publication is sold or delivered is a child.
- (6) Subsection (4) does not apply if the person is a parent or guardian of the child.
- (7) It is a defence to a prosecution for an offence against this section if the defendant proves that—
- (a) the child produced to the defendant acceptable proof of age before the defendant sold or delivered the publication to the child; and
  - (b) the defendant believed, on reasonable grounds, that the child was an adult.

### **36 Leaving publications in certain places**

- (1) A person commits an offence if—
- (a) the person leaves a publication in a public place or, displayed in a way that it can be seen by people in a public place; and
  - (b) the publication is a submittable publication or classified category 1 restricted, category 2 restricted or RC; and
  - (c) the person knows that the publication is a submittable publication or is so classified; and

- (d) for a publication classified category 1 restricted—
  - (i) the public place is not a shop or stall; and
  - (ii) section 29 (1) is not complied with in relation to the publication; and
- (e) for a publication classified category 2 restricted—the public place is not a restricted publications area.

Maximum penalty:

- (a) for a publication classified category 1 restricted or category 2 restricted, or a submittable publication that is subsequently classified category 1 restricted or category 2 restricted—50 penalty units, imprisonment for 6 months or both; or
  - (b) for a publication classified RC, or a submittable publication that is subsequently classified RC—100 penalty units, imprisonment for 1 year or both.
- (2) A person commits an offence if—
- (a) the person leaves a publication on private premises, without the occupier's permission; and
  - (b) the publication is a submittable publication or classified category 1 restricted, category 2 restricted or RC; and
  - (c) the person knows that the publication is a submittable publication or is so classified.

Maximum penalty:

- (a) for a publication classified category 1 restricted or category 2 restricted, or a submittable publication that is subsequently classified category 1 restricted or category 2 restricted—50 penalty units, imprisonment for 6 months or both; or
- (b) for a publication classified RC, or a submittable publication that is subsequently classified RC—100 penalty units, imprisonment for 1 year or both.

- (3) This section does not apply if the publication was a submittable publication and, since the offence was alleged to have been committed, the publication has been classified unrestricted.

**37 Possessing or copying publication for purpose of publishing**

- (1) A person commits an offence if—
- (a) the person possesses or copies—
    - (i) a submittable publication; or
    - (ii) a publication classified RC; and
  - (b) the person intends to sell the publication or copy.

Maximum penalty:

- (a) for a submittable publication—50 penalty units, imprisonment for 6 months or both; or
  - (b) for a publication classified RC—100 penalty units, imprisonment for 1 year or both.
- (2) This section does not apply if—
- (a) the person possesses or copies the publication for classification or law enforcement; or
  - (b) the publication was a submittable publication and, since the offence was alleged to have been committed, the publication has been classified unrestricted, category 1 restricted or category 2 restricted.
- (3) If, in a prosecution for an offence against this section, it is proved that the defendant made 10 or more copies of a submittable publication or a publication classified RC, it is presumed, unless the contrary is proved, that the defendant intended to sell the publication.

## Part 4 Computer games

### 38 Sale of computer game or demonstration in public place

- (1) A person commits an offence if—
  - (a) the person—
    - (i) sells a computer game; or
    - (ii) demonstrates a computer game in a public place; and
  - (b) the computer game is not classified.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person sells a computer game, or demonstrates a computer game in a public place—
  - (a) with a title other than the title under which the computer game is classified; or
  - (b) in a form other than the form in which the computer game is classified.

Maximum penalty: 50 penalty units.

### 39 Computer games—display of notice about classifications

- (1) A person commits an offence if—
  - (a) the person sells or demonstrates a computer game in a public place; and
  - (b) the person does not display a notice—
    - (i) in the approved form about classifications for computer games; and

- (ii) in the public place so that the notice is clearly visible to the public.

Maximum penalty: 5 penalty units.

*Note* The notice is approved by the director of the board (see dict, def *approved form*).

- (2) An offence against this section is a strict liability offence.

#### **40 RC computer games**

- (1) A person commits an offence if—
  - (a) the person—
    - (i) sells a computer game; or
    - (ii) demonstrates a computer game in a public place; and
  - (b) the computer game is—
    - (i) classified RC; or
    - (ii) an unclassified computer game; and
  - (c) for an unclassified computer game—the computer game is subsequently classified RC.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Absolute liability applies to subsection (1) (c).
- (3) This section does not apply if the computer game is an unclassified computer game and the person does not believe, and has no reasonable grounds for believing, that the computer game would be classified RC.

**41 Demonstration of MA 15+ computer game**

- (1) A person commits an offence if—
- (a) the person demonstrates a computer game classified MA 15+ in a public place; and
  - (b) either—
    - (i) the determined markings are not exhibited before the computer game can be played; or
    - (ii) entry to the public place is not restricted to adults, or children accompanied by a parent or guardian while in the place.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

**42 Demonstration of unclassified, RC and MA 15+ computer game**

- (1) A person commits an offence if—
- (a) the person demonstrates a computer game somewhere that is not a controlled space for demonstrating the computer game; and
  - (b) the computer game is—
    - (i) classified RC or MA 15+; or
    - (ii) an unclassified computer game; and
  - (c) for an unclassified computer game—the computer game is subsequently classified RC or MA 15+.

Maximum penalty:

- (a) for a computer game classified RC or an unclassified computer game that is subsequently classified RC—100 penalty units, imprisonment for 1 year or both; or



- (b) for a computer game classified MA 15+ or an unclassified computer game that is subsequently classified MA 15+—20 penalty units.
- (2) Absolute liability applies to subsection (1) (c).
- (3) This section does not apply if the computer game is an unclassified computer game and the person does not believe, and has no reasonable grounds for believing, that the computer game would be classified RC or MA 15+.
- (4) In this section:
  - controlled space*, for demonstrating a computer game, means a space where the person demonstrating the computer game—
    - (a) can prevent someone entering the space; and
    - (b) can prevent the computer game being seen from outside the space.

#### **43 Private demonstration of RC computer games in presence of child**

- (1) A person commits an offence if—
  - (a) the person demonstrates a computer game in a place other than a public place; and
  - (b) a child is present during any part of the demonstration; and
  - (c) the computer game is—
    - (i) classified RC; or
    - (ii) an unclassified computer game; and
  - (d) for an unclassified computer game—the computer game is subsequently classified RC.

Maximum penalty: 50 penalty units.

- (2) Absolute liability applies to—

- (a) the circumstance that the person present is a child; and
  - (b) subsection (1) (d).
- (3) This section does not apply if—
- (a) the person is a parent or guardian of the child; or
  - (b) the computer game is an unclassified computer game and the person does not believe, and has no reasonable grounds for believing, that the computer game would be classified RC.
- (4) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant believed, on reasonable grounds, that the child was an adult.

**44 Computer games to display determined markings and consumer advice**

- (1) A person commits an offence if—
- (a) the person sells a computer game: and
  - (b) the container, wrapping or casing of the computer game does not have displayed on it—
    - (i) the determined markings relevant to the computer game's classification; and
    - (ii) if there is current consumer advice for the computer game—the consumer advice.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
- (a) the person sells an unclassified computer game; and
  - (b) the container, wrapping or casing in which the computer game is sold displays a marking that suggests that the computer game has been classified.

Maximum penalty: 30 penalty units.

- (3) A person commits an offence if—
- (a) the person sells a classified computer game; and
  - (b) the container, wrapping or casing in which the computer game is sold displays a marking that suggests that the computer game is unclassified or has a different classification.

Maximum penalty: 30 penalty units.

- (4) A person commits an offence if—
- (a) the person makes a computer game available for playing on a pay and play basis (for example, a coin operated arcade game); and
  - (b) the device used for playing the game does not have displayed on it—
    - (i) the determined markings relevant to the computer game's classification; and
    - (ii) if there is current consumer advice for the computer game—the consumer advice.

Maximum penalty: 10 penalty units.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) If 2 or more computer games are available for playing on a device mentioned in subsection (4), the determined markings and consumer advice to be displayed on the device are the markings and advice relevant to the computer game with the highest classification under the Commonwealth Act.
- (6) An offence against this section is a strict liability offence.
- (7) Subsection (8) applies if—
- (a) a computer game is reclassified under the Commonwealth Act, section 39 (Reclassification etc after 2 years); or

- (b) the board revokes a classification or consumer advice for a computer game under the Commonwealth Act.
- (8) A person does not commit an offence against this section in relation to the computer game during the 30-day period after the decision to reclassify or revoke takes effect, if the computer game displays the determined markings and consumer advice (if any) applying to the computer game before the reclassification or revocation.

**45 Possessing unclassified or RC computer games and other computer games**

- (1) A person commits an offence if—
  - (a) the person possesses an unclassified computer game or a computer game classified RC at any premises; and
  - (b) classified computer games are sold or demonstrated at the premises.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
  - (a) the person is the occupier of premises; and
  - (b) someone else possesses an unclassified computer game or a computer game classified RC at the premises; and
  - (c) classified computer games are sold or demonstrated at the premises.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) In this section:
  - possess* a computer game includes—
    - (a) have control over the disposition of the computer game (whether or not having custody of the computer game); and

- (b) have joint possession of the computer game.

#### **46 Sale or delivery of certain computer games to child**

- (1) A person commits an offence if—
  - (a) the person sells or delivers a computer game to a child; and
  - (b) the computer game is—
    - (i) classified RC; or
    - (ii) an unclassified computer game; and
  - (c) for an unclassified computer game—the computer game is subsequently classified RC.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Absolute liability applies to—
  - (a) the circumstance that the person to whom the computer game is sold or delivered is a child; and
  - (b) subsection (1) (c).
- (3) Subsection (1) does not apply if the computer game is an unclassified computer game and the person does not believe, and has no reasonable grounds for believing, that the computer game would be classified RC.
- (4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—
  - (a) the child produced to the defendant acceptable proof of age before the defendant sold or delivered the computer game to the child; and
  - (b) the defendant believed, on reasonable grounds, that the child was an adult.
- (5) A person commits an offence if—

- (a) the person sells or delivers a computer game to a child under 15 years old; and
- (b) the computer game is—
  - (i) classified MA 15+; or
  - (ii) an unclassified computer game; and
- (c) for an unclassified computer game—the computer game is subsequently classified MA 15+.

Maximum penalty: 20 penalty units.

- (6) Absolute liability applies to—
  - (a) the circumstance that the person to whom the computer game is sold or delivered is under 15 years old; and
  - (b) subsection (5) (c).
- (7) Subsection (5) does not apply if—
  - (a) the person is the parent or guardian of the child; or
  - (b) the computer game is an unclassified computer game and the person does not believe, and has no reasonable grounds for believing, that the computer game would be classified MA 15+.
- (8) It is a defence to a prosecution for an offence against subsection (5) if the defendant proves that the defendant believed, on reasonable grounds, that—
  - (a) the child was 15 years old or older; or
  - (b) a parent or guardian of the child had consented to the sale or delivery.

#### **47 Leaving computer games in certain places**

- (1) A person commits an offence if—

- (a) the person leaves a computer game in a public place or, without the occupier's permission, at private premises; and
- (b) the computer game is—
  - (i) classified RC or MA 15+; or
  - (ii) an unclassified computer game; and
- (c) for an unclassified computer game—the computer game is subsequently classified RC or MA 15+.

Maximum penalty:

- (a) for a computer game classified RC, or an unclassified computer game that is subsequently classified RC—100 penalty units, imprisonment for 1 year or both; or
  - (b) for a computer game classified MA 15+, or an unclassified computer game that is subsequently classified MA 15+—20 penalty units.
- (2) Absolute liability applies to subsection (1) (c).
  - (3) This section does not apply if the computer game is an unclassified computer game and the person does not believe, and has no reasonable grounds for believing, that the computer game would be classified RC or MA 15+.

#### **48 Possessing or copying computer game for purpose of sale or demonstration**

- (1) A person commits an offence if—
  - (a) the person possesses—
    - (i) a computer game classified RC; or
    - (ii) an unclassified computer game; and

(b) the person intends to sell or demonstrate the computer game.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Subsection (1) does not apply if the person possesses the computer game for classification or law enforcement.
- (3) A person commits an offence if—
- (a) the person copies—
    - (i) a computer game classified RC; or
    - (ii) an unclassified computer game; and
  - (b) the person intends to sell or demonstrate the computer game or the copy.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (4) This section does not apply if, since the offence was alleged to have been committed, the computer game has been classified MA 15+, M, PG or G.
- (5) If, in a prosecution for an offence against this section, it is proved that the defendant made 10 or more copies of a computer game classified RC, or an unclassified computer game, it is presumed, unless the contrary is proved, that the defendant intended to sell or exhibit the computer game.



## Part 5                      Advertisements

### 49                      Certain advertisements not to be published

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for a film, publication or computer game; and
  - (b) approval for the advertisement—
    - (i) has been refused under the Commonwealth Act, section 29 (Approval of advertisements), or suspended under that Act, section 13 (5) (Applications for classification of publications) or section 21A (Revocation of classification of films or computer games that are found to contain contentious material); or
    - (ii) would be refused under that Act, section 29 if it had been submitted for approval.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person publishes an advertisement for a film, publication or computer game; and
  - (b) the advertisement—
    - (i) is published in a form other than the form in which it is approved under the Commonwealth Act, section 29; or
    - (ii) is not published in accordance with a condition of that approval.

Maximum penalty: 10 penalty units.

**U 50 Certain films, publications and computer games not to be advertised**

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for an unclassified film; and
  - (b) the film has not been granted a certificate of exemption under the Commonwealth Act, section 33 (Granting of certificates of exemption).

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if the person publishes an advertisement for—
- (a) a film classified RC; or
  - (b) a submittable publication; or
  - (c) a publication classified RC; or
  - (d) an unclassified computer game; or
  - (e) a computer game classified RC.

Maximum penalty: 30 penalty units.

- (3) For this section, if a person publishes an advertisement for an unclassified film or an unclassified computer game at the request of someone else, the other person alone is taken to have published it.
- (4) An offence against this section is a strict liability offence.

**U 51 Screening advertisements with feature films**

- (1) A person commits an offence if—
- (a) the person screens an advertisement for a film in a public place; and

- (b) the advertisement is screened during a program for the exhibition of another film (the *feature film*); and
- (c) the feature film has a classification mentioned in column 2 of an item in table 51; and
- (d) the advertised film does not have a classification mentioned in column 3 of the item.

**Table 51**

column 1 item	column 2 feature film	column 3 advertised film
1	G	G
2	PG	PG or G
3	M	M, PG or G
4	MA 15+	MA 15+, M, PG or G
5	R 18+	R 18+, MA 15+, M, PG or G
6	X 18+	X 18+, R 18+, MA 15+, M, PG or G

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

## **52 Liability of occupier for certain advertisements**

- (1) A person commits an offence if—
  - (a) the person is the occupier of a public place that is not a restricted publications area; and
  - (b) the person screens an advertisement for a film in the public place; and

- (c) the advertisement is for—
  - (i) a film classified MA 15+, and is screened during a program for the exhibition of a film classified M, PG or G; or
  - (ii) a film classified R 18+, and is screened during a program for the exhibition of a film classified MA 15+, M, PG or G; or
  - (iii) a film classified X 18+.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

**U 53 Sale of feature films with advertisements**

- (1) A person commits an offence if—
  - (a) the person sells a film (the *feature film*); and
  - (b) the feature film is accompanied by an advertisement for another film; and
  - (c) the feature film has a classification mentioned in column 2 of an item in table 53; and
  - (d) the advertised film does not have a classification mentioned in column 3 of the item.

**Table 53**

column 1 item	column 2 feature film	column 3 advertised film
1	G	G
2	PG	PG or G
3	M	M, PG or G
4	MA 15+	MA 15+, M, PG or G

column 1 item	column 2 feature film	column 3 advertised film
5	R 18+	R 18+, MA 15+, M, PG or G
6	X 18+	X 18+, R 18+, M A15+, M, PG or G

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

### **U** 53A **Advertisements with computer games**

- (1) A person commits an offence if—
- the person sells or demonstrates a computer game (the *main game*) in a public place; and
  - the main game is accompanied by an advertisement for another game; and
  - the main game has a classification mentioned in column 2 of an item in table 53A; and
  - the advertised game does not have a classification mentioned in column 3 of the item.

**Table 53A**

column 1 item	column 2 main game	column 3 advertised computer game
1	G	G
2	PG	PG or G
3	M	M, PG or G
4	MA 15+	MA 15+, M, PG or G

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

**53B Advertisement to contain determined markings and consumer advice**

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for a classified film, a classified publication or a classified computer game; and
  - (b) the determined markings relevant to the classification of the film, publication or computer game, and relevant consumer advice (if any)—
    - (i) are not contained in the advertisement; or
    - (ii) are not displayed in the way determined under the Commonwealth Act, section 8 (Markings for classifications); or
    - (iii) are not clearly visible, having regard to the size and nature of the advertisement.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) Subsection (4) applies if—
- (a) a film, publication or computer game is reclassified under the Commonwealth Act, section 39 (Reclassification etc after 2 years) or section 97A (Reclassification); or
  - (b) the board revokes a classification or consumer advice for a film, publication or computer game under the Commonwealth Act.
- (4) A person does not commit an offence against this section in relation to the film, publication or computer game during the 30-day period after the decision to reclassify or revoke takes effect, if the film, publication or computer game displays the determined markings and consumer advice (if any) applying to the film, publication or computer game before the reclassification or revocation.

**53C Misleading or deceptive advertisements**

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for an unclassified film, an unclassified publication, or an unclassified computer game, with a marking; and
  - (b) the marking indicates or suggests that the film, publication or computer game is classified.

Maximum penalty: 30 penalty units.

- (2) For subsection (1), if a person publishes an advertisement at the request of someone else, the other person alone is taken to have published it.

- (3) A person commits an offence if—
- (a) the person publishes an advertisement for a classified film, a classified publication, or a classified computer game, with a marking; and
  - (b) the marking indicates or suggests that the film, publication or computer game is unclassified or has a different classification.

Maximum penalty: 30 penalty units.

- (4) An offence against this section is a strict liability offence.

- (5) Subsection (6) applies if—
- (a) a film, publication or computer game is reclassified under the Commonwealth Act, section 39 (Reclassification etc after 2 years) or section 97A (Reclassification); or
  - (b) the board revokes a classification or consumer advice for a film, publication or computer game under the Commonwealth Act, section 22B (3) (Classification of a publication, film or computer game that may be the same as or similar to a classified item).

- (6) A person does not commit an offence against subsection (3) in relation to the film, publication or computer game during the 30-day period after the decision to reclassify or revoke takes effect, if the film, publication or computer game displays the determined markings and consumer advice (if any) applying to the film, publication or computer game before the reclassification or revocation.

**53D Advertisements for category 1 restricted or category 2 restricted publications**

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for a publication classified category 1 restricted; and
  - (b) the advertisement is published—
    - (i) in a publication other than a publication classified category 1 restricted or category 2 restricted; or
    - (ii) in a place other than a restricted publications area.

Maximum penalty: 30 penalty units.

- (2) A person commits an offence if—
- (a) the person publishes an advertisement for a publication classified category 2 restricted; and
  - (b) the advertisement is published—
    - (i) in a publication other than a publication classified category 2 restricted; or
    - (ii) in a place other than a restricted publications area.

Maximum penalty: 30 penalty units.

- (3) A person commits an offence if—



- (a) the person is the occupier of a place other than a restricted publications area; and
- (b) an advertisement for a publication classified category 2 restricted is published in the place.

Maximum penalty: 30 penalty units.

- (4) An offence against this section is a strict liability offence.

### **53E Advertisements and X 18+ films**

- (1) A person commits an offence if—
  - (a) an advertisement for a film classified R 18+ is published in a publication; and
  - (b) someone responds to the advertisement; and
  - (c) the person sells a film classified X 18+ to the other person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
  - (a) the person publishes an advertisement for a film classified X 18+; and
  - (b) the advertisement explicitly depicts or describes sexual acts or fetishes.

Maximum penalty: 30 penalty units.

- (3) For subsection (2), if a person publishes an advertisement at the request of someone else, the other person alone is taken to have published it.
- (4) An offence against subsection (2) is a strict liability offence.
- (5) Subsection (2) does not apply if—

- (a) the advertisement is in a publication that is classified category 2 restricted; and
- (b) the publication is contained in a sealed package made of plain opaque material displaying the words ‘WARNING: SEXUALLY EXPLICIT ADVERTISING’, or words to that effect, on the outside of the package; and
- (c) the package is contained in another sealed package made of plain opaque material.

**54 Classification symbols etc to be published with advertisements**

- (1) A person commits an offence if—
  - (a) the person publishes a publication containing an advertisement for—
    - (i) a film; or
    - (ii) a publication classified category 1 restricted or category 2 restricted; or
    - (iii) a computer game; and
  - (b) the publication does not also contain a list of the classification symbols and determined markings for films, publications or computer games respectively.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

## **Part 6**                      **X 18+ films**

### **Division 6.1**                **Preliminary**

#### **54A**            **Definitions—pt 6**

In this part:

*influential person*, in relation to a body corporate, means—

- (a) a director or secretary of the body; or
- (b) a person who is—
  - (i) substantially concerned in the management of the body;  
or
  - (ii) able to control, or to substantially influence, the body's activities or internal affairs.

*licence* means a licence granted under section 54E.

*registrar* means the Registrar of X 18+ Film Licences under section 54B.

### **Division 6.2**                **X 18+ film licences**

#### **54B**            **Registrar of X 18+ Film Licences**

The chief executive must appoint a public servant as the Registrar of X 18+ Film Licences.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

#### **54BA Delegation by registrar**

The registrar may delegate the registrar's functions under this Act or another territory law to a public servant.

*Note* For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

#### **54C Application for X 18+ film licence**

A person may apply for a licence to sell or copy, or to sell and copy, X 18+ films.

*Note 1* A fee may be determined under s 67 (Determination of fees) for this section.

*Note 2* If a form is approved by the registrar under s 68 (Approved forms—registrar) for an application, the form must be used.

#### **54D Further information on licence application**

The registrar may, by written notice, require an applicant for a licence to provide, in writing or orally, the further information relating to the application that is specified in the notice.

#### **54E Grant or refusal of licence**

- (1) The registrar must, on application in accordance with section 54C—
  - (a) grant a licence to sell or copy, or to sell and copy, X 18+ films;  
or
  - (b) refuse to grant a licence to sell or copy, or to sell and copy, X 18+ films.
- (2) The registrar may impose conditions on the grant of a licence.
- (3) The conditions that the registrar may impose are conditions that the registrar believes, on reasonable grounds, are necessary in the public interest.

- 
- (4) For the purposes of making a decision under subsection (1) or (2), the registrar must have regard to the following:
- (a) if the applicant is an individual—whether he or she is an undischarged bankrupt;
  - (b) if the applicant is a body corporate—whether it is being wound up;
  - (c) whether the applicant has contravened this Act, the *Publications Control Act 1989* or the *Business Franchise (“X” Videos) Act 1990*;
  - (d) whether the applicant has been convicted of an offence punishable by a fine of at least 100 penalty units or imprisonment for at least 1 year;
  - (e) whether the applicant has infringed copyright within the meaning of the *Copyright Act 1968* (Cwlth), part 4 in relation to a cinematograph film within the meaning of that Act.
- (5) In subsection (4) (c) and (d), a reference to an **applicant** includes, if the applicant is a body corporate, a reference to any influential person in relation to the body.
- (6) If the registrar refuses to grant a licence, the registrar must refund to the applicant an amount equal to any fee accompanying the application for the licence.

#### **54F Form of licence**

A licence must specify—

- (a) the full name and address of the licensee; and
- (b) whether the licence is granted in relation to the sale or copying, or the sale and copying, of X 18+ films; and
- (c) the premises in relation to which the licence is granted; and
- (d) the conditions (if any) to which the licence is subject.

### **54G Term of licence**

Subject to this part, a licence remains in force for the period, not longer than 1 year, that is specified in the licence.

### **54H Renewal of licence**

- (1) A licensee may, at any time before the end of the period mentioned in section 54G or the last period of renewal, as the case may be, apply to the registrar for a renewal of the licence.

*Note 1* A fee may be determined under s 67 (Determination of fees) for this section.

*Note 2* If a form is approved by the registrar under s 68 (Approved forms—registrar) for an application, the form must be used.

- (2) The registrar must, on receipt of an application in accordance with subsection (1), renew the licence.
- (3) Subject to this part, a licence renewed under subsection (2) remains in force for a period of 1 year beginning on the end of the period mentioned in section 54G, or the last period of renewal, as the case requires.

### **54J Payment by instalments**

- (1) If, under section 54H, the registrar renews a licence, the licensee may pay the determined fee by instalments.
- (2) Instalment payments must be paid on or before the due date.
- (3) If a person fails to pay an instalment by the due date, the registrar must, by notice to the licensee, suspend the licence.
- (4) If a person fails to pay an instalment within 30 days after the due date for the instalment, the registrar must cancel the licence.
- (5) In this section:

*due date* means 1 February, 1 May, 1 August or 1 November.

**54K Variation of conditions**

- (1) The registrar may, by written notice served on the licensee, vary the conditions specified in a licence.
- (2) A notice under subsection (1) takes effect from the day specified in the notice (not earlier than 28 days after the date of the notice).
- (3) A licensee must give the licence to the registrar within 28 days after the day notice under subsection (1) is given to the licensee.

Maximum penalty: 20 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) On receipt of a licence, the registrar must amend the licence and return it to the licensee within 7 days.

**54L Change of licensed premises**

- (1) This section applies if a licensee proposes to—
  - (a) sell X 18+ films at premises other than premises stated in the licence; or
  - (b) stop selling X 18+ films at particular premises stated in the licence.
- (2) Not later than 28 days before the day of the proposed change, the licensee must give the registrar—
  - (a) the licence; and
  - (b) written notice of the proposed change and the proposed date of change.

Maximum penalty: 20 penalty units.

- (3) The registrar must amend the licence and return it to the licensee within 7 days after the day the registrar receives the licence and notice.
- (4) The licence amendment takes effect on the date stated in the notice.

- (5) An offence against this section is a strict liability offence.

#### **54M Change of activity under a licence**

- (1) This section applies if—
- (a) a licensee is authorised under a licence to sell and copy X 18+ films; and
  - (b) the licensee stops selling or copying X 18+ films.
- (2) Within 28 days after the day the licensee stops selling or copying the films, the licensee must give the registrar—
- (a) the licence; and
  - (b) written notice that the licensee has stopped selling or copying X 18+ films.

Maximum penalty: 20 penalty units.

- (3) The registrar must amend the licence and return it to the licensee within 7 days after the day the registrar receives the licence and notice.
- (4) An offence against this section is a strict liability offence.

#### **54N Cancellation**

- (1) The registrar may cancel a licence if the registrar has reasonable grounds for believing that—
- (a) the licence was granted in error or in consequence of a false statement made, or misleading information given, by the applicant for the licence; or
  - (b) the licensee has contravened a condition of a licence; or
  - (c) the licensee has contravened this Act, the *Publications Control Act 1989* or the *Business Franchise (“X” Videos) Act 1990*; or
  - (d) the licensee has been convicted of an offence—



- (i) against this Act; or
  - (ii) that is punishable by a fine of at least 100 penalty units or imprisonment for at least 1 year; or
  - (e) if the licensee is an individual—licensee is an undischarged bankrupt; or
  - (f) if the licensee is a body corporate—it is being wound up; or
  - (g) the licensee has infringed copyright within the meaning of the *Copyright Act 1968* (Cwlth), part 4 in relation to a cinematograph film within the meaning of that Act.
- (2) In subsection (1) (c), (d) and (g), a reference to a *licensee* includes, if the licensee is a body corporate, a reference to any defined influential person in relation to the body.
- (3) The registrar must, before cancelling a licence, by written notice served on the licensee, invite the licensee to show cause why the licence should not be cancelled.
- (4) A notice must contain—
- (a) particulars of the facts and circumstances relied on by the registrar to establish that a ground for cancellation exists; and
  - (b) a statement to the effect that the licensee may, within the period that is specified in the notice (of not less than 14 days after the date the notice is given), give to the registrar written particulars of the facts and circumstances relied on by the licensee to show that the licence should not be cancelled.
- (5) After the end of the period specified in a notice under subsection (3), the registrar may cancel the licence for the reasons mentioned in the notice.
- (6) In making a decision under subsection (5), the registrar must have regard to any explanation provided in accordance with subsection (3) about why the licence should not be cancelled.

- (7) Cancellation of a licence takes effect at the end of the day when notice of the cancellation is given to the licensee under section 54R.
- (8) The registrar must cancel a licensee's licence on the written request of the licensee.

**54P Surrender of licence**

- (1) Within 7 days after the day a licensee stops selling or copying X 18+ films under a licence, the licensee must surrender the licence by giving the licence and written notice of its surrender to the registrar.

Maximum penalty: 20 penalty units.

- (2) The surrender of the licence takes effect on the day the notice is given to the registrar.
- (3) An offence against this section is a strict liability offence.

**54Q Return of licence**

- (1) If a licence is cancelled or expires, the licensee must return the licence to the registrar within 7 days after day of the cancellation or expiry.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

**Division 6.4 Enforcement**

**54T Meaning of X 18+ film for div 6.4**

In this division:

*X 18+ film* includes an unclassified film and a film classified RC.

**54U Inspectors**

The chief executive may appoint a public servant as an inspector.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

### **54V Identity cards**

- (1) The chief executive must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an inspector; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.

### **54W Powers of entry, search etc**

- (1) For this part an inspector may, without a warrant—
  - (a) enter premises to which a licence relates at any reasonable time when the premises are open for business; or
  - (b) subject to section 54X, enter any premises at any time with the consent of the occupier of the premises.
- (2) An inspector who enters premises under subsection (1), is not authorised to remain on the premises if, on request by or on behalf

of the licensee or occupier of the premises, the inspector does not produce the inspector's identity card.

- (3) An inspector who enters premises under subsection (1) may—
- (a) inspect, make copies of, or take extracts from, any film, or any document or record that the inspector has reasonable grounds for believing to be connected with the sale of X 18+ films; and
  - (b) seize any thing that the inspector has reasonable grounds for believing to be connected with an offence against this Act; and
  - (c) require any person on the premises to make available any films, or any document or record kept on the premises, to give information that the inspector has reasonable grounds for believing is connected with the sale of X 18+ films, and to answer questions; and
  - (d) require the licensee or occupier to give the inspector the assistance as is reasonable to enable the inspector to exercise the inspector's powers under this section.
- (4) A person must not fail to comply with a requirement made of the person under subsection (3) (c) or (d).

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.

#### **54X Consent to entry and inspection**

- (1) Before seeking the consent of the licensee or occupier of premises for section 54W (1) (b), an inspector must inform the occupier that the occupier may refuse to consent.

- (2) If an inspector obtains the consent of the licensee or occupier of premises for section 54W (1) (b), the inspector must ask the licensee or occupier to sign a written acknowledgment—
- (a) that the licensee or occupier has given the inspector consent, for that paragraph, to enter the premises and to exercise the powers of an inspector under section 54W (3); and
  - (b) that the licensee or occupier has been told that he or she may refuse to give that consent; and
  - (c) specifying the day and time that consent was given.
- (3) If it is material, in any proceeding, for a court to be satisfied of the consent of an occupier for section 54W (1) (b) and an acknowledgment in accordance with subsection (2) is not produced in evidence, it must be presumed that the occupier did not consent unless the contrary is established.

## Division 6.5                      Seized films

### 54Y                      Definitions—div 6.5

In this division:

***defined offence***, in relation to a seized film, means an offence in relation to that film against—

- (a) this Act; or
- (b) the *Crimes Act 1900*, section 65; or
- (c) the *Publications Control Act 1989*; or
- (d) the *Business Franchise (“X” Videos) Act 1990*.

***defined period***, in relation to a seized film, means—

- (a) 120 days after the seizure of the film; or
- (b) any extended, or further extended, period that is approved under section 54YB (1).

*seized film* means a film seized under section 54W.

**54YA When proceeding for defined offence decided**

For this division, a proceeding in relation to a defined offence must not be taken to be decided until—

- (a) the end of any period for lodging an appeal in relation to the proceeding; or
- (b) if any appeal has been lodged in relation to the proceeding—the appeal has been decided, and any period for lodging a further appeal has ended.

**54YB Extension of defined period**

- (1) For this division, the registrar may, in writing, approve the extension, or further extension, of the defined period in relation to a seized film for the period that the registrar considers, on reasonable grounds, to be necessary or desirable for—
  - (a) allowing the person from whom the film was seized to satisfy the registrar, on reasonable grounds, that the film is classified X 18+, R 18+, MA 15+, M, PG or G; or
  - (b) the administration of this Act.
- (2) The registrar may, in writing, approve the extension of a defined period under subsection (1)—
  - (a) on the written application of the person from whom the relevant film was seized, made before that period would otherwise have ended; or
  - (b) at any time, on the registrar's own initiative.
- (3) The registrar must give a copy of an extension under subsection (2) (b) in relation to a seized film to the person from whom the film was seized.

## **54Z Notice**

- (1) This section applies to a seized film if the registrar is not satisfied, on reasonable grounds, that the film is classified X 18+, R 18+, MA 15+, M, PG or G.
- (2) If this section applies to a seized film, the registrar must give a written notice to the person from whom the film was seized inviting the person to satisfy the registrar, on reasonable grounds, within the defined period that the film is classified X 18+, R 18+, MA 15+, M, PG or G.
- (3) A notice under subsection (2) must include a statement to the effect that—
  - (a) the seized film may be destroyed unless the person satisfies the registrar, on reasonable grounds, that the film is classified X 18+, R 18+, MA 15+, M, PG or G; and
  - (b) the person from whom the film was seized may apply to the registrar under section 54YB (2) for the extension, or further extension, of the defined period.

## **54ZA Return of seized films**

The registrar must take reasonable steps to return a seized film to the person from whom it was seized if—

- (a) the registrar is satisfied, on reasonable grounds, that the film is classified X 18+, R 18+, MA 15+, M, PG or G; and
- (b) either—
  - (i) a proceeding in relation to a defined offence has not been started at the end of the defined period after the date of seizure; or

- (ii) if such a proceeding has been started within that period— the proceeding has been decided (whether before or after the end of that period) and no offence has been found proved in relation to the film; and
- (c) if the person is a licensee—
  - (i) an invitation under section 54N (3) on the ground mentioned in section 54N (1) (c) in relation to the film has not been issued to the person at the end of the defined period after the date of seizure; or
  - (ii) if an invitation has been issued within that period— the registrar has made a decision (whether before or after the end of that period) not to cancel the licence on that ground.

**54ZB Destruction of seized films**

- (1) The registrar must destroy a seized film if, following the issue of a notice under section 54Z (2)—
  - (a) the person from whom the film was seized does not satisfy the registrar, on reasonable grounds in accordance with the invitation in the notice, that the film is classified X 18+, R 18+, MA 15+, M, PG or G; and
  - (b) either—
    - (i) a proceeding in relation to a defined offence has not been started at the end of the defined period after the date of seizure; or
    - (ii) if such a proceeding has been started within that period— the proceeding has been decided (whether before or after the end of that period) and no offence has been found proved in relation to the film.



- (2) The registrar must destroy a seized film if—
  - (a) the person from whom the film was seized is a licensee; and
  - (b) the licence is cancelled on the ground mentioned in section 54N (1) (c) in relation to the film.
- (3) The registrar must destroy a seized film if a defined offence in relation to the film is proved.
- (4) Despite subsections (1), (2) and (3), the registrar may retain a seized film for the purposes of the administration of this Act for the period as the registrar considers, on reasonable grounds, to be necessary or desirable for those purposes.

## Part 7 Exemptions

### 55 Exemption—publications, films, computer games or advertisements

- (1) The Minister or director may, on application, by notice, exempt a film, publication, computer game or advertisement specified in the notice from the provisions of this Act specified in the notice.
- (2) An exemption under subsection (1) is subject to the conditions (if any) specified in the notice.

### 56 Exemption—approved organisation

- (1) The Minister or director may, on application, by notice, exempt an organisation approved under section 57—
  - (a) in relation to the exhibition of a film at an event that is specified in the notice from the provisions of this Act specified in the notice; or
  - (b) in relation to all or any of the organisation's activities or functions that relate to films or computer games.
- (2) An exemption under subsection (1) is subject to the conditions (if any) specified in the notice.
- (3) An application must—
  - (a) be in writing; and
  - (b) specify the film that the organisation intends to exhibit and the event at which the film is to be exhibited; and
  - (c) be accompanied by a synopsis of the story or events depicted in the film.

*Note* A fee may be determined under s 67 (Determination of fees) for this subsection.

**57 Organisations may be approved**

- (1) The Minister may, on application, in writing, approve an organisation for this part.
- (2) The director may, on application, in writing, approve an organisation for this part.
- (3) An organisation may be approved for section 56 (1) (b) only if the organisation—
  - (a) is established under an Act; and
  - (b) carries on activities of an educational, cultural or artistic nature.
- (4) In considering whether to approve an organisation, the Minister or director must have regard to—
  - (a) the purpose for which the organisation was formed; and
  - (b) the extent to which the organisation carries on activities of a medical, scientific, educational, cultural or artistic nature; and
  - (c) the reputation of the organisation in relation to the screening of films; and
  - (d) the conditions about admission of people to the screening of films by the organisation.
- (5) An approval under subsection (1) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.
- (6) An approval under subsection (1) takes effect on notification of the approval under the Legislation Act and an approval under subsection (2) takes effect on publication in the Commonwealth Gazette of the notice by which the approval is made.

- (7) If the Minister or director has reasonable grounds for believing that it is no longer appropriate that an organisation be approved because of a change in any matter mentioned in subsection (3) or (4), the Minister or director must, by written notice to the organisation—
- (a) set out the grounds for his or her belief; and
  - (b) invite the organisation, within a period specified in the notice, to show cause why the approval should not be revoked.
- (8) The Minister or director may—
- (a) after the end of the period mentioned in section (7) (b); and
  - (b) after taking into consideration any representations made by the organisation;
- by written notice, revoke the approval.
- (9) Revocation of an approval takes effect on the date of the decision to revoke or on a later date specified in a notice under subsection (8).

### **57A Ministerial directions and guidelines**

In exercising any power under this part, the director must give effect to any directions or guidelines issued by the Minister in relation to the application of this part.

## Part 7A Notification and review of decisions

### 58 Meaning of *reviewable decision*—pt 7A

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 59 Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

### 60 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

## Part 8 Miscellaneous

### 61 Restricted publications area—construction and management

- (1) A restricted publications area must be so constructed that no part of the interior of the area is visible to any person outside the area.
- (2) Each entrance to a restricted publications area must—
  - (a) be fitted with a gate or door capable of excluding people from the area; and
  - (b) be closed by means of that gate or door when the area is not open to the public.
- (3) A restricted publications area must be managed by an adult who must be in attendance in or near the area at all times when the area is open to the public.
- (4) The manager of a restricted publications area must ensure that notice in the form prescribed by regulation is displayed in a prominent place on or near each entrance to the area, so that it is clearly visible from outside the area.

### 62 Restricted publications area—offences

- (1) The manager of a restricted publications area commits an offence if a child enters the area.  
Maximum penalty: 10 penalty units.
- (2) Absolute liability applies to the circumstance that the person who enters the area is a child.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—
- (a) the child produced to the defendant acceptable proof of age before the child entered the area; and
  - (b) the defendant believed, on reasonable grounds, that the child was an adult.
- (4) The manager of a restricted publications area commits an offence if—
- (a) a film that is classified X 18+ or R 18+ is exhibited in the area; and
  - (b) the exhibition is other than by way of a slot machine operated by a coin or token.

Maximum penalty: 50 penalty units.

- (5) An offence against subsection (4) is a strict liability offence.

### **63 Certificates as evidence**

- (1) This section applies if the director, deputy director or convenor signs a certificate stating that on a date or during a period stated in the certificate—
- (a) a film, publication or computer game was classified, was classified at a classification stated in the certificate or was not classified; or
  - (b) an advertisement for a film, publication or computer game had been approved, had been refused approval or had not been approved.
- (2) The certificate is evidence of the matters stated in it.
- (3) Unless the contrary is proved, a document that appears to be a certificate under this section is taken to be a certificate under this section.

**64 Starting prosecutions for offences**

- (1) A prosecution for an offence against this Act in relation to a film, publication or computer game that is unclassified at the time of the offence—
  - (a) must not be started until the film, publication or computer game has been classified; but
  - (b) may be started not later than 1 year after the day the film, publication or computer game is classified.
- (2) Subsection (1) (a) does not apply to a prosecution for an offence against any of the following provisions:
  - section 7 (1)
  - section 16
  - section 19 (2)
  - section 20 (1) or (2)
  - section 27 (1) or (3)
  - section 34 (1)
  - section 38 (1)
  - section 44 (2)
  - section 45 (1) or (2)
  - section 50 (1) or (2) (d)
  - section 53C (1)

**64A Forfeiture of certain publications, films and computer games**

- (1) If a person is convicted of an offence in relation to a publication, film or computer game that is classified RC, the court may order that the publication, film or computer game is forfeited to the Territory.
- (2) This section does not apply to a film seized under section 54W.



**65 Publication to prescribed entity**

Despite anything to the contrary in this Act, a person may publish to a prescribed person or body, or to a person or body in a prescribed class of persons or bodies—

- (a) a film or computer game classified RC, X 18+, R 18+ or MA 15+; or
- (b) a publication classified Category 1 restricted, Category 2 restricted or RC; or
- (c) a submittable publication.

**66 Acts and omissions of representatives**

- (1) In this section:

*person* means an individual.

*Note* See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

*representative*, of a person, means an employee or agent of the person.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

## 67 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

*Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## 68 Approved forms—registrar

- (1) The registrar may, in writing, approve forms for this Act (other than a form stated by this Act to be an approved form).

*Note* Approved forms are forms approved by the director of the board (see dict, def of *approved form*).

- (2) If the registrar approves a form for a particular purpose, the form approved by the registrar must be used for that purpose.

*Note* For other provisions about forms, see the Legislation Act, s 255.

- (3) A form approved by the registrar is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**69 Regulation-making power**

The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## Schedule 1 Reviewable decisions

(see pt 7A)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	54E (1) (b)	refuse to grant licence	applicant for licence
2	54E (2)	grant licence subject to conditions	applicant for licence
3	54K (1)	vary condition of licence	licensee
4	54N (1)	cancel licence	entity that has licence cancelled
5	54YB (1)	refuse to approve extension of defined period in relation to seized film	applicant for extension
6	54YB (1)	approve extension of defined period in relation to seized film for period less than that applied for	applicant for extension
7	54ZB (1)	destroy seized film	entity that had film seized
8	55	refuse to exempt film, publication, computer game or advertisement	applicant for exemption

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>
9	55	state provisions of Act from which film, publication, computer game or advertisement is exempt	applicant for exemption
10	55	state conditions subject to which exemption is given	applicant for exemption
11	56	refuse to exempt organisation	applicant for exemption
12	56	state provisions of Act from which organisation is exempt	applicant for exemption
13	56	state conditions subject to which exemption is given	applicant for exemption
14	57 (1)	refuse to approve organisation	applicant for approval
15	57 (2)	refuse to approve organisation	applicant for approval
16	57 (8)	revoke approval	entity that has approval revoked

## **U** Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- ACAT
- adult
- chief executive (see s 163)
- exercise
- function
- individual
- reviewable decision notice
- the Territory
- under.

***acceptable proof of age***, in relation to a person, means documentary evidence that might reasonably be accepted as applying to the person and as showing that the person is an adult.

***advertisement***—see the Commonwealth Act, section 5 (Definitions).

***approved form*** means a form approved under the Commonwealth Act, section 8A.

***at*** premises includes in or on the premises.

***board*** means the Classification Board established by the Commonwealth Act, section 45.

***buy*** means buy or exchange or hire, and includes offer to buy or exchange or hire, agree to buy, exchange or hire and cause or permit to be bought or exchanged or hired, whether by retail or wholesale.

***classified*** means classified under the Commonwealth Act, and includes reclassified under that Act.

**Commonwealth Act** means the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth).

**computer game**—see the Commonwealth Act, section 5A (Meaning of *computer game*).

**consumer advice** means consumer advice determined under the Commonwealth Act, section 20.

**convenor** means the Convenor of the Review Board appointed under the Commonwealth Act, section 74.

**defined offence**, for division 6.5 (Seized films)—see section 54Y.

**defined period**, for division 6.5 (Seized films)—see section 54Y.

**demonstrate** includes exhibit, display, screen or make available for playing.

**deputy director** means the deputy director of the board.

**determined markings** means markings determined under the Commonwealth Act, section 8.

**director** means the director of the board.

**exempt computer game**—see the Commonwealth Act, section 5 (Definitions).

**exempt film**—see the Commonwealth Act, section 5 (Definitions).

**exhibit**—

(a) in relation to a film—means projected or screen; and

(b) a film in a public place—see section 3.

**film**—see the Commonwealth Act, section 5 (Definitions).

**guardian** means an adult who is exercising parental control over a child.

**influential person**, for part 6 (X 18+ films)—see section 54A.

***international flight***, in relation to an aircraft, means a flight that passes through the airspace over the territory of more than 1 country, and includes any part of the flight that may happen in Australia.

***international voyage***, in relation to a vessel, means a voyage, whether direct or indirect, between a place in Australia and a place outside Australia, and includes any part of the voyage that may happen in Australia.

***licence***, for part 6 (X 18+ films)—see section 54A.

***place*** includes vacant land, premises, a vehicle, a vessel and an aircraft (except a vessel on an international voyage or an aircraft on an international flight).

***publication***—see the Commonwealth Act, section 5 (Definitions).

***public place*** means any place which the public is entitled to use or which is open to or used by the public, whether on payment of money or otherwise.

***publish***—see the Commonwealth Act, section 5 (Definitions).

***registrar***, for part 6 (X 18+ films)—see section 54A.

***restricted publications area*** means any premises, or part of a premises, constructed and managed in accordance with section 61.

***reviewable decision***, for part 7A (Notification and review of decisions)—see section 58.

***seized film***, for division 6.5 (Seized films)—see section 54Y.

***sell*** means sell or exchange or let on hire, and includes offer or display for sale or exchange or hire, agree to sell, exchange or hire and cause or permit to be sold or exchanged or hired, whether by retail or wholesale.

***submittable publication***—see the Commonwealth Act, section 5 (Definitions).



***X 18+ film***—

- (a) means a film classified X 18+; and
- (b) for division 6.4 (Enforcement)—see section 54T.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

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### 3 Legislation history

**Classification (Publications, Films and Computer Games)  
(Enforcement) Act 1995 No 47**

notified 18 December 1995 (Gaz 1995 No S306)  
s 1, s 2 commenced 18 December 1995 (s 2 (1))  
remainder commenced 1 January 1996 (s 2 (2) (a) and see Cwlth  
Gaz 1995 No GN50)

as amended by

**Classification (Publications, Films and Computer Games)  
(Enforcement) (Amendment) Act 1996 No 46**

notified 19 September 1996 (Gaz 1996 No S234)  
commenced 19 September 1996 (s 2)

**Classification (Publications, Films and Computer Games)  
(Enforcement) (Amendment) Act (No 2) 1996 No 77**

notified 20 December 1996 (Gaz 1996 No S328)  
ss 1-3 commenced 20 December 1996 (s 2 (1))  
ss 4-18 commenced 1 January 1997 (s 2 (2) and Gaz 1996 No S349)  
remainder commenced 8 January 1997 (s 2 (2) and Gaz 1997 No S2)

**Classification (Publications, Films and Computer Games)  
(Enforcement) (Amendment) Act 1997 No 108**

notified 24 December 1997 (Gaz 1997 No S420)  
commenced 24 December 1997 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 62**

notified 26 July 2001 (Gaz 2001 No 30) (Gaz 1995 No S306)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 62 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Classification (Publications, Films and Computer Games)  
(Enforcement) Amendment Act 2001 No 72**

notified 10 September 2001 (Gaz 2001 No S66)  
s 1, s 2 commenced 10 September 2001 (IA s 10B)  
remainder commenced 23 March 2002 (s 2 (2))

## Endnotes

3 Legislation history

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### **Legislation Amendment Act 2002 No 11 pt 2.7**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.7 commenced 28 May 2002 (s 2 (2))

### **Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.4**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 1 pt 1.4 commenced 9 April 2004 (s 2 (1))

### **Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2005 A2005-8**

notified LR 14 March 2005  
s 1, s 2 commenced 14 March 2005 (LA s 75 (1))  
remainder commenced 17 June 2005 (s 2 and CN2005-8)

### **Justice and Community Safety Legislation Amendment Act 2005 (No 4) A2005-60 sch 1 pt 1.5**

notified LR 1 December 2005  
s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))  
sch 1 pt 1.5 commenced 22 December 2005 (s 2 (4))

### **Justice and Community Safety Legislation Amendment Act 2006 A2006-40 sch 1 pt 1.2**

notified LR 28 September 2006  
s 1, s 2 commenced 28 September 2006 (LA s 75 (1))  
sch 1 pt 1.2 commenced 29 September 2006 (s 2 (1))

### **Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.17**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.17 commenced 12 April 2007 (s 2 (1))

### **ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.20**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.20 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

### Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2009 A2009-3

notified LR 18 February 2009

s 1, s 2 commenced 18 February 2009 (LA s 75 (1))

sch 2 commences on the commencement of Classification  
(Publications, Films and Computer Games) Amendment (Assessments  
and Advertising) Act 2008 (Cwlth), sch 1 (s 2 (2))

remainder commenced 19 February 2009 (s 2 (1))

*Note* default commencement under s 2 (2): 1 July 2009

## 4 Amendment history

### Name of Act

s 1 sub 2001 No 72 amdt 1.1

### Dictionary

s 2 om 2001 No 44 amdt 1.720  
ins 2001 No 72 amdt 1.1

### Notes

s 2A renum as s 3

### Offences against Act—application of Criminal Code etc

s 2B renum as s 4

### Notes

s 3  
**orig s 3**  
defs reloc to dict 2001 No 72 amdt 1.3  
om 2001 No 72 amdt 1.4  
def **approved advertisement** om 2001 No 72 amdt 1.2  
def **business day** om 2001 No 72 amdt 1.2  
def **classification certificate** om 2001 No 72 amdt 1.2  
def **computer game** om 2001 No 72 amdt 1.2  
def **court** om 2001 No 72 amdt 1.2  
def **determined fee** om 2001 No 44 amdt 1.721  
def **film** om 2001 No 72 amdt 1.2  
def **publication** om 2001 No 72 amdt 1.2  
def **publish** om 2001 No 72 amdt 1.2  
def **submittable publication** om 2001 No 72 amdt 1.2  
**prev s 3**  
(prev s 4) renum as s 3 and then s 5  
**pres s 3**  
(prev s 5) ins A2005-8 s 5  
renum and reloc as s 2A A2007-3 amdt 3.70  
renum as s 3 A2007-3 amdt 3.71

## Endnotes

### 4 Amendment history

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#### **Offences against Act—application of Criminal Code etc**

s 4                    **orig s 4**  
renum as s 3 and then s 5  
**prev s 4**  
(prev s 5) renum as s 4 and then s 6  
**pres s 4**  
(prev s 6) sub A2005-8 s 5  
renum and reloc as s 2B A2007-3 amdt 3.70  
renum as s 4 A2007-3 amdt 3.71

#### **Exhibition of film**

s 5                    **orig s 5**  
renum and reloc as s 2A and then s 3  
**pres s 5**  
(prev s 4) renum as s 3 A2005-8 s 4  
renum as s 5 A2007-3 amdt 3.71

#### **Films consisting only of classified films**

s 5A                  ins A2009-3 amdt 1.1

#### **Application of Act**

s 6                    **orig s 6**  
renum and reloc as s 2B and then s 4  
**pres s 6**  
(prev s 5) sub 2001 No 72 s 6  
renum as s 4 A2005-8 s 4  
renum as s 6 A2007-3 amdt 3.71

#### **Films**

pt 2 hdg            sub A2005-8 s 6

#### **Exhibition of films**

div 2.1 hdg        (prev pt 2 div 1 hdg) renum R2 LA (see 2001 No 72 amdt 1.28)  
sub A2005-8 s 6

#### **Exhibition of film in public place**

s 7 hdg            sub 2001 No 72 amdt 1.5  
s 7                  am 2001 No 44 amdt 1.722  
sub A2005-8 s 6  
am A2009-3 amdt 1.2

#### **Exhibition of films—display of notice about classifications**

s 8                  sub A2005-8 s 6

#### **Exhibition of RC and X 18+ films**

s 9                  sub A2005-8 s 6

#### **Exhibition of unclassified, RC, X 18+, R 18+ and MA 15+ films**

s 10                sub A2005-8 s 6

**Attendance of child at certain films—offence by parents etc**

s 11 sub A2005-8 s 6

**Attendance of child at certain films—offence by child**

s 12 sub A2005-8 s 6

**Private exhibition of certain films in presence of child**

s 13 sub A2005-8 s 6

**Attendance of child at R 18+ film—offence by exhibitor**

s 14 sub A2005-8 s 6

**Attendance of child at MA 15+ film—offence by exhibitor**

s 15 sub A2005-8 s 6

**Sale of films**div 2.2 hdg (prev pt 2 div 2 hdg) renum R2 LA (see 2001 No 72 amdt 1.28)  
sub A2005-8 s 6**Unclassified and RC films**

s 16 sub A2005-8 s 6

**Classified films**s 17 hdg sub 2001 No 72 amdt 1.6  
s 17 am 2001 No 44 amdt 1.723  
sub A2005-8 s 6  
am A2009-3 amdt 1.3**Sale of films—display of notice about classifications**s 18 am 2001 No 72 s 7  
sub A2005-8 s 6**Films to display determined markings and consumer advice**s 19 sub A2005-8 s 6  
am A2009-3 amdt 1.4**Possessing unclassified or RC films and other films at certain premises**s 20 am 1996 No 77  
sub A2005-8 s 6**Display of X 18+ films for sale**

s 21 sub A2005-8 s 6

**Sale of X 18+ films**s 22 am 2001 No 72 amdt 1.7  
sub A2005-8 s 6**Sale or delivery of certain films to child**

s 23 sub A2005-8 s 6

**Buying certain films—offence by child**s 24 am 1996 No 77; 1997 No 108  
sub A2005-8 s 6

## Endnotes

### 4 Amendment history

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#### **Miscellaneous**

div 2.3 hdg (prev pt 2 div 3 hdg) renum R2 LA (see 2001 No 72 amdt 1.28)  
sub A2005-8 s 6

#### **Power to ask name, age and address**

s 25 sub A2005-8 s 6

#### **Leaving films in certain places**

s 26 am 2001 No 72 s 8  
sub A2005-8 s 6

#### **Possessing or copying film**

s 27 am 2001 No 72 s 9  
sub A2005-8 s 6

#### **Sale or delivery of publications contrary to conditions**

s 27A ins 2001 No 72 s 10  
om A2005-8 s 6

#### **Consumer advice for unrestricted publications**

s 27B ins 2001 No 72 s 10  
om A2005-8 s 6

#### **Publications**

pt 3 hdg sub A2005-8 s 6

#### **Sale of unclassified RC publications**

s 28 sub A2005-8 s 6

#### **Category 1 restricted publications**

s 29 am 2001 No 72 s 11  
sub A2005-8 s 6

#### **Category 2 restricted publications**

s 30 sub A2005-8 s 6

#### **Sale or delivery of publications contrary to conditions**

s 31 sub A2005-8 s 6

#### **Consumer advice for unrestricted publication**

s 32 sub A2005-8 s 6

#### **Publications classified unrestricted**

s 33 sub A2005-8 s 6

#### **Misleading or deceptive markings**

s 34 hdg sub 2001 No 72 amdt 1.8  
s 34 am 2001 No 44 amdt 1.724  
sub A2005-8 s 6

#### **Sale of restricted publications to child**

s 35 sub A2005-8 s 6



**Leaving publications in certain places**

s 36 sub A2005-8 s 6

**Possessing or copying publication for purpose of publishing**

s 37 sub A2005-8 s 6

**Computer games**

pt 4 hdg sub A2005-8 s 6

**Sale of computer game or demonstration in public place**

s 38 sub A2005-8 s 6

**Computer games—display of notice about classifications**s 39 am 2001 No 72 s 12, s 13; ss renum R3 LA (see 2001 No 72 s 14)  
sub A2005-8 s 6**RC computer games**s 40 am 2001 No 72 amdt 1.9  
sub A2005-8 s 6**Demonstration of MA 15+ computer game**

s 41 sub A2005-8 s 6

**Demonstration of unclassified, RC and MA 15+ computer game**

s 42 sub A2005-8 s 6

**Private demonstration of RC computer games in presence of child**

s 43 sub A2005-8 s 6

**Computer games to display determined markings and consumer advice**s 44 am 2001 No 72 s 15, s 16  
sub A2005-8 s 6  
am A2009-3 amdt 1.5**Possessing unclassified or RC computer games and other computer games**s 45 am 1996 No 46  
sub A2005-8 s 6**Sale or delivery of certain computer games to child**

s 46 sub A2005-8 s 6

**Leaving computer games in certain places**

s 47 sub A2005-8 s 6

**Possessing or copying computer game for purpose of sale or demonstration**

s 48 sub A2005-8 s 6

**Advertisements**

pt 5 hdg sub A2005-8 s 6

**Certain advertisements not to be published**

s 49 sub A2005-8 s 6

## Endnotes

4 Amendment history

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### **Certain films, publications and computer games not to be advertised**

s 50 am 2001 No 72 s 17  
sub A2005-8 s 6  
am A2009-3 amdt 2.1-2.4

### **Screening advertisements with feature films**

s 51 am 2001 No 72 s 18  
sub A2005-8 s 6  
am A2009-3 amdt 2.5

### **Liability of occupier for certain advertisements**

s 52 sub A2005-8 s 6

### **Sale of feature films with advertisements**

s 53 am 2001 No 72 amdt 1.10  
sub A2005-8 s 6  
am A2009-3 amdt 2.6

### **Advertisements with computer games**

s 53A ins A2005-8 s 6  
am A2009-3 amdt 2.7

### **Advertisement to contain determined markings and consumer advice**

s 53B ins A2005-8 s 6  
am A2009-3 amdt 1.6, amdt 1.7

### **Misleading or deceptive advertisements**

s 53C ins A2005-8 s 6

### **Advertisements for category 1 restricted or category 2 restricted publications**

s 53D ins A2005-8 s 6

### **Advertisements and X 18+ films**

s 53E ins A2005-8 s 6

### **Classification symbols etc to be published with advertisements**

s 54 sub A2005-8 s 6

### **X 18+ films**

pt 6 hdg ins 1996 No 77  
sub A2005-8 s 7

### **Preliminary**

div 6.1 hdg (prev pt 6 div 1 hdg) renum R2 LA (see 2001 No 72 amdt 1.28)

### **Definitions—pt 6**

s 54A hdg sub 2001 No 72 amdt 1.11  
s 54A ins 1996 No 77  
am 2001 No 72 amdt 1.12-1.14  
def **offence** om 2002 No 11 amdt 2.14  
def **registrar** am A2005-8 s 8

**X 18+ film licences**

div 6.2 hdg (prev pt 6 div 2 hdg) renum R2 LA (see 2001 No 72 amdt 1.28)  
sub A2005-8 s 9

**Registrar of X 18+ Film Licences**

s 54B hdg am A2005-8 s 10  
s 54B ins 1996 No 77  
am A2005-8 s 10  
sub A2007-3 amdt 3.72  
(2)-(4) exp 12 April 2008 (s 54B (4) (LA s 88 declaration  
applies))

**Delegation by registrar**

s 54BA ins A2006-40 amdt 1.6

**Application for X 18+ film licence**

s 54C hdg am A2005-8 s 10  
s 54C ins 1996 No 77  
sub 2001 No 44 amdt 1.725  
am A2005-8 s 10

**Further information on licence application**

s 54D ins 1996 No 77

**Grant or refusal of licence**

s 54E ins 1996 No 77  
am 2001 No 44 amdt 1.726; 2001 No 72 amdt 1.15; A2005-8 s  
10

**Form of licence**

s 54F ins 1996 No 77  
am A2005-8 s 10

**Term of licence**

s 54G ins 1996 No 77

**Renewal of licence**

s 54H ins 1996 No 77  
am 2001 No 44 amdt 1.727-1.729

**Payment by instalments**

s 54J ins 1996 No 77

**Variation of conditions**

s 54K ins 1996 No 77  
am A2005-8 s 11; ss renum R7 LA (see A2005-8 s 12)

**Change of licensed premises**

s 54L ins 1996 No 77  
sub A2005-8 s 13

## Endnotes

### 4 Amendment history

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#### **Change of activity under a licence**

s 54M ins 1996 No 77  
sub A2005-8 s 13

#### **Cancellation**

s 54N ins 1996 No 77  
am 2001 No 72 amdt 1.16

#### **Surrender of licence**

s 54P ins 1996 No 77  
sub A2005-8 s 14

#### **Return of licence**

s 54Q ins 1996 No 77  
sub A2005-8 s 14

#### **Review of decisions**

div 6.3 hdg (prev pt 6 div 3 hdg) renum R2 LA (see 2001 No 72 amdt 1.28)  
om A2008-37 amdt 1.71

#### **Notice of decisions**

s 54R ins 1996 No 77  
am 1997 No 108  
ss renum R2 LA  
om A2008-37 amdt 1.71

#### **Review by administrative appeals tribunal**

s 54S ins 1996 No 77  
om A2008-37 amdt 1.71

#### **Enforcement**

div 6.4 hdg (prev pt 6 div 4 hdg) renum R2 LA (see 2001 No 72 amdt 1.28)

#### **Meaning of X 18+ film for div 6.4**

s 54T hdg sub 2001 No 72 amdt 1.17  
am A2005-8 s 15  
s 54T ins 1996 No 77  
am A2005-8 s 15

#### **Inspectors**

s 54U ins 1996 No 77  
sub A2007-3 amdt 3.73  
(2)-(4) exp 12 April 2008 (s 54B (4) (LA s 88 declaration  
applies))

#### **Identity cards**

s 54V ins 1996 No 77  
am 2001 No 72 amdt 1.18  
sub A2005-8 s 16  
(5)-(7) exp 17 June 2005 (s 54V (7))

**Powers of entry, search etc**

s 54W ins 1996 No 77  
am 2001 No 72 amdt 1.19; A2005-8 s 17, s 18

**Consent to entry and inspection**

s 54X ins 1996 No 77

**Seized films**

div 6.5 hdg (prev pt 6 div 5 hdg) ins 1997 No 107  
renum R2 LA (see 2001 No 72 amdt 1.28)

**Definitions—div 6.5**

s 54Y hdg sub 2001 No 72 amdt 1.20  
s 54Y ins 1996 No 77  
sub 1997 No 108  
am 2001 No 72 amdt 1.21  
(2) renum R2 as s 54YA (see 2001 No 72 amdt 1.22)  
(3)-(5) renum R2 as s 54YB (see 2001 No 72 amdt 1.24)

**When proceeding for defined offence decided**

s 54YA hdg ins 2001 No 72 amdt 1.23  
s 54YA (prev s 54Y (2)) renum 2001 No 72 amdt 1.22

**Extension of defined period**

s 54YB hdg ins 2001 No 72 amdt 1.25  
s 54YB (prev s 54Y (3)-(5)) renum 2001 No 72 amdt 1.24  
am A2005-8 s 19

**Notice**

s 54Z ins 1997 No 108  
am A2005-8 s 19

**Return of seized films**

s 54ZA ins 1997 No 108  
am A2005-8 s 19

**Destruction of seized films**

s 54ZB ins 1997 No 108  
am A2005-8 s 19

**Exemption—publications, films, computer games or advertisements**

s 55 am 1996 No 46

**Exemption—approved organisation**

s 56 am 1996 No 46; 2001 No 44 amdt 1.730; A2009-3 amdt 1.8

**Organisations may be approved**

s 57 am 1996 No 46; 2001 No 44 amdt 1.731-1.733; ss renum R2  
LA (see 2001 No 44 amdt 1.734); A2009-3 amdt 1.9,  
amdt 1.10; ss renum R14 LA

## Endnotes

4 Amendment history

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### **Ministerial directions and guidelines**

s 57A ins 1996 No 46

### **Notification and review of decisions**

pt 7A hdg ins A2008-37 amdt 1.72

### **Meaning of *reviewable decision*—pt 7A**

s 58 am 1996 No 46  
sub A2008-37 amdt 1.72

### **Reviewable decision notices**

s 59 sub A2008-37 amdt 1.72

### **Applications for review**

s 60 om 2001 No 72 amdt 1.26  
ins A2008-37 amdt 1.72

### **Restricted publications area—construction and management**

s 61 am 2001 No 44 amdt 1.735

### **Restricted publications area—offences**

s 62 sub A2005-8 s 20

### **Certificates as evidence**

s 63 sub A2005-8 s 20  
am A2009-3 amdt 1.11

### **Starting prosecutions for offences**

s 64 am 1996 No 77  
sub A2005-60 amdt 1.13

### **Forfeiture of certain publications, films and computer games**

s 64A ins 1996 No 77  
am 1997 No 108

### **Publication to prescribed entity**

s 65 am A2005-8 s 21

### **Act and omissions of representatives**

s 66 sub A2004-15 amdt 1.4

### **Determination of fees**

s 67 sub 2001 No 44 amdt 1.736

### **Approved forms—registrar**

s 68 sub 2001 No 44 amdt 1.736

### **Regulation-making power**

s 69 sub 2001 No 44 amdt 1.736

**Application of certain amendments made by Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2001**

s 70 ins 2001 No 72 s 19  
exp 31 December 2002 (s 70 (3))

**Reviewable decisions**

sch 1 ins A2008-37 amdt 1.73

**Dictionary**

dict ins 2001 No 72 amdt 1.27  
 defs reloc from s 3 2001 No 72 amdt 1.3  
 am A2008-37 amdt 1.74; A2009-3 s 4  
 def **acceptable proof of age** reloc from s 3 2001 No 72 amdt 1.3  
 def **adult** reloc from s 3 2001 No 72 amdt 1.3  
 om R9 LA  
 def **advertisement** reloc from s 3 2001 No 72 amdt 1.3  
 om R3 LA  
 ins 2001 No 72 amdt 1.27  
 def **advertising scheme** ins A2009-3 amdt 2.8  
 def **approved form** reloc from s 3 2001 No 72 amdt 1.3  
 sub A2009-3 amdt 1.12  
 def **at** ins A2005-8 s 22  
 def **board** reloc from s 3 2001 No 72 amdt 1.3  
 def **buy** reloc from s 3 2001 No 72 amdt 1.3  
 def **classified** reloc from s 3 2001 No 72 amdt 1.3  
 def **Commonwealth Act** reloc from s 3 2001 No 72 amdt 1.3  
 def **computer game** ins 2001 No 72 amdt 1.27  
 sub A2009-3 s 5  
 def **consumer advice** reloc from s 3 2001 No 72 amdt 1.3  
 def **convenor** ins A2009-3 amdt 1.13  
 def **defined offence** ins 2001 No 72 amdt 1.27  
 def **defined period** ins 2001 No 72 amdt 1.27  
 def **demonstrate** reloc from s 3 2001 No 72 amdt 1.3  
 def **deputy director** reloc from s 3 2001 No 72 amdt 1.3  
 def **determined markings** reloc from s 3 2001 No 72 amdt 1.3  
 def **director** reloc from s 3 2001 No 72 amdt 1.3  
 def **exempt computer game** ins 2001 No 72 s 4  
 reloc from s 3 2001 No 72 amdt 1.3  
 def **exempt film** ins 2001 No 72 s 4  
 reloc from s 3 2001 No 72 amdt 1.3  
 def **exhibit** reloc from s 3 2001 No 72 amdt 1.3  
 om R3 LA  
 ins 2001 No 72 amdt 1.27  
 def **film** reloc from s 3 2001 No 72 amdt 1.3  
 om R3 LA  
 ins 2001 No 72 amdt 1.27

## Endnotes

4 Amendment history

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- def **guardian** reloc from s 3 2001 No 72 amdt 1.3  
am A2005-8 s 23
- def **influential person** ins 2001 No 72 amdt 1.27  
am A2005-8 s 23
- def **international flight** ins 2001 No 72 s 4  
reloc from s 3 2001 No 72 amdt 1.3
- def **international voyage** ins 2001 No 72 s 4  
reloc from s 3 2001 No 72 amdt 1.3
- def **licence** ins 2001 No 72 amdt 1.27  
am A2005-8 s 23
- def **place** sub 2001 No 72 s 5  
reloc from s 3 2001 No 72 amdt 1.3
- def **publication** om 2001 No 72 amdt 1.2  
ins 2001 No 72 amdt 1.27
- def **public place** reloc from s 3 2001 No 72 amdt 1.3
- def **publish** ins 2001 No 72 amdt 1.27
- def **registrar** ins 2001 No 72 amdt 1.27  
am A2005-8 s 23
- def **restricted publications area** am 1996 No 46 s 4  
reloc from s 3 2001 No 72 amdt 1.3
- def **reviewable decision** ins A2008-37 amdt 1.75
- def **seized film** ins 2001 No 72 amdt 1.27
- def **sell** reloc from s 3 2001 No 72 amdt 1.3
- def **submittable publication** ins 2001 No 72 amdt 1.27
- def **X 18+ film** am 1996 No 77 s 4  
reloc from s 3 2001 No 72 amdt 1.3  
om R3 LA  
ins 2001 No 72 amdt 1.27  
am A2005-8 s 23



## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1997 No 108	31 December 1997
2	Act 2002 No 72	30 January 2002
3	Act 2001 No 72	23 March 2002
3 (RI)	A2001-72	9 August 2004
4	Act 2002 No 11	30 May 2002
4 (RI)	A2002-11	9 August 2004
5	A2002-11	1 January 2003
5 (RI)	A2002-11	9 August 2004
6	A2004-15	9 April 2004
6 (RI)	A2004-15	9 August 2004
7	A2005-8	17 June 2005
8	A2005-8	18 June 2005
9	A2005-60	22 December 2005
10	A2006-40	29 September 2006
11	A2007-3	12 April 2007
12	A2007-3	13 April 2008
13	A2008-37	2 February 2009

## Endnotes

6 Uncommenced amendments

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### 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<b>Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2009 A2009-3 sch 2</b>
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## Schedule 2      Amendments consequential on the Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Act 2008 (Cwlth)

(see s 3)

### **[2.1] Section 50 (1)**

*substitute*

- (1) A person commits an offence if the person publishes an advertisement for an unclassified film otherwise than in accordance with the advertising scheme or a transitional Commonwealth regulation.

Maximum penalty: 50 penalty units.

### **[2.2] Section 50 (2) (d)**

*omit*

**[2.3] New section 50 (2A)**

*insert*

- (2A) A person commits an offence if the person publishes an advertisement for an unclassified computer game otherwise than in accordance with the advertising scheme.

Maximum penalty: 30 penalty units.

**[2.4] New section 50 (5)**

*insert*

- (5) In this section:

***transitional Commonwealth regulation*** means a regulation under the *Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Act 2008* (Cwlth), schedule 1, item 13.

*Note* Item 13 allows for transitional regulations in relation to the advertising of unclassified films that had been granted a certificate of exemption by the board under the Commonwealth Act, s 33 as in force before the commencement of item 13.

**[2.5] New section 51 (1A)**

*insert*

- (1A) A person commits an offence if—
- (a) the person screens an advertisement for an unclassified film in a public place; and
  - (b) the advertisement does not comply with the advertising scheme.

Maximum penalty: 50 penalty units.

**[2.6] New section 53 (1A)**

*insert*

- (1A) A person commits an offence if—
- (a) the person sells a classified film (the *feature film*); and
  - (b) the feature film is accompanied by an advertisement for an unclassified film; and
  - (c) the advertisement does not comply with the advertising scheme.

Maximum penalty: 50 penalty units.

**[2.7] New section 53A (1A)**

*insert*

- (1A) A person commits an offence if—
- (a) the person sells or demonstrates a classified computer game (the *main game*) in a public place; and
  - (b) the main game is accompanied by an advertisement for an unclassified computer game; and
  - (c) the advertisement does not comply with the advertising scheme.

Maximum penalty: 50 penalty units.

**[2.8] Dictionary, new definition of *advertising scheme***

*insert*

*advertising scheme* means the scheme determined from time to time under the Commonwealth Act, section 31 (1).