



Australian Capital Territory

Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2001

No 72 of 2001

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Australian Capital Territory

Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2001

No 72 of 2001

An Act to amend the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* because of amendments of the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth), and for other purposes

[Notified in ACT Gazette No. S66: 10 September 2001]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2001*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by notice in the Gazette.

Note 1 The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Legislation Act 2001*, s 77 (1)).

- (2) However, if a provision has not commenced before 23 March 2002, it automatically commences on that day.
- (3) The *Legislation Act 2001*, section 79 (Automatic commencement of postponed law) does not apply to this section.

3 Act amended

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

Note The Act is amended in the body of this Act and in schedule 1.

4 Interpretation

Section 3, new definitions of *exempt computer game*, *exempt film*, *international flight* and *international voyage*

insert

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

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

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.

5 Section 3, definition of *place*

substitute

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).

6 Section 5

substitute

5 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.

7 Films to bear determined markings and consumer advice Section 18 (4)

substitute

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

- (b) the board revokes a classification or consumer advice for a film 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);

it is sufficient compliance with this section for 30 days after the decision to reclassify or revoke takes effect if the film displays the determined markings and consumer advice applying to the film before the reclassification or revocation.

8 Category 1 restricted publications

Section 26 (2)

substitute

- (2) However, subject to any condition imposed by the board under the Commonwealth Act, section 13A (2) (Conditions of certain classifications for publications), if the sale or delivery takes place in a restricted publications area, the package need not be sealed but on delivery must be contained in an opaque wrapper.
- (3) If—
 - (a) a publication is reclassified under the Commonwealth Act, section 39 (Reclassification etc. after 2 years) or 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);

it is sufficient compliance with subsection (1) for 30 days after the decision to reclassify or revoke takes effect if the publication bears the determined markings applying to the publication before the reclassification or revocation.

**9 Category 2 restricted publications
Section 27 (3)**

substitute

- (3) If—
- (a) a publication is reclassified under the Commonwealth Act, section 39 (Reclassification etc. after 2 years) or 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);

it is sufficient compliance with subsection (2) (b) for 30 days after the decision to reclassify or revoke takes effect if the publication bears the determined markings applying to the publication before the reclassification or revocation.

10 New sections 27A and 27B

insert

27A Sale or delivery of publications contrary to conditions

If a publication is classified Unrestricted or Category 1 restricted subject to a condition imposed under the Commonwealth Act, section 13A (Conditions of certain classifications for publications), a person must not, without reasonable excuse, sell or deliver the publication except in accordance with the condition.

Maximum penalty: 30 penalty units.

27B Consumer advice for unrestricted publications

A person must not, without reasonable excuse, sell a publication classified Unrestricted in relation to which the board has determined consumer advice under the Commonwealth Act, section 20 (2)

(Board to decide consumer advice for publications, films and computer games), unless the consumer advice is displayed on the publication or the packaging of the publication.

Maximum penalty: 10 penalty units.

11 Misleading or deceptive markings **Section 29 (3)**

substitute

- (3) If—
- (a) a publication is reclassified under the Commonwealth Act, section 39 (Reclassification etc. after 2 years) or 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);

it is sufficient compliance with this section for 30 days after the decision to reclassify or revoke takes effect if the publication bears the determined markings applying to the publication before the reclassification or revocation.

12 Computer games to bear determined markings and consumer advice **New section 39 (3A) and (3B)**

insert

- (3A) A person must not, without reasonable excuse, make a computer game available for playing on a pay and play basis (for example, a coin operated arcade game) unless the determined markings relevant to the classification of the computer game and relevant consumer advice (if any) are displayed on the device used for playing the game.

Maximum penalty: 10 penalty units.

- (3B) If 2 or more computer games are available for playing on a device mentioned in subsection (3A), the determined markings and consumer advice to be displayed on the device are those relevant to the computer game with the highest classification under the Commonwealth Act.

13 Section 39 (4)

substitute

- (4) 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, section 22B (3) (Classification of a publication, film or computer game that may be the same as or similar to a classified item);

it is sufficient compliance with this section for 30 days after the decision to reclassify or revoke takes effect if the computer game displays the determined markings and consumer advice applying to the computer game before the reclassification or revocation.

14 Section 39

renumber subsections when Act next republished under Legislation Act 2001

**15 Certain advertisements not to be published
Section 44 (1) (b)**

after

Act

insert

; or

16 New section 44 (1) (c)

insert

- (c) if the advertisement was approved under the Commonwealth Act, section 29 (Approval of advertisements) and the approval is later revoked under the Commonwealth Act, section 13 (5) (Applications for classification of publications) or 21A (Revocation of classification of films or computer games that are found to contain contentious material).

**17 Advertisement to contain determined markings and
consumer advice
Section 50 (2)**

substitute

- (2) If—
- (a) a film, publication or computer game is reclassified under the Commonwealth Act, section 39 (Reclassification etc. after 2 years) or 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);

it is sufficient compliance with subsection (1) for 30 days after the decision to reclassify or revoke takes effect if the determined markings and consumer advice applying to the film, publication or computer game before the reclassification or revocation are displayed.

18 Misleading or deceptive advertisements

Section 51 (3)

substitute

- (3) If—
- (a) a film, publication or computer game is reclassified under the Commonwealth Act, section 39 (Reclassification etc. after 2 years) or 97A (Reclassification); or
 - (b) the board revokes a classification 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);

it is sufficient compliance with subsection (2) for 30 days after the decision to reclassify or revoke takes effect if the determined markings applying to the film, publication or computer game before the reclassification or revocation are published.

19 New section 70

insert

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

- (1) The amendment of this Act, made by the *Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2001* (the **amending Act**), that inserted section 39

- (3A) and (3B) applies in relation to a computer game whether published before or after the commencement of the amending Act.
- (2) The amendments of this Act, made by the amending Act (other than the amendment that inserted section 39 (3A) and (3B) and the amendments made by schedule 1 of that Act), do not apply in relation to a publication, film or computer game—
- (a) first published before the commencement of that Act; or
 - (b) for which an application for classification was made before the commencement of that Act.
- (3) This section expires on 31 December 2002.

Schedule 1 Technical amendments— Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

(see s 3)

[1.1] Section 1

substitute

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 words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions 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 expression '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 *Interpretation Act 1967*, s 11F and s 11G).

Schedule 1 Technical amendments—Classification (Publications, Films and
Computer Games) (Enforcement) Act 1995

Amendment [1.2]

[1.2] Section 3, definitions of *approved advertisement, business day, classification certificate, computer game, court, film, publication, publish and submittable publication*

omit

[1.3] Section 3, definitions (as amended by this Act)

relocate to dictionary

[1.4] Section 3, remainder

omit

[1.5] Section 7, heading

substitute

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

[1.6] Section 17, heading

substitute

17 Sale of films—display of notice about classifications

[1.7] Section 22 (2)

omit

or refuse

[1.8] Section 34, heading

substitute

34 Computer games—display of notice about classifications

[1.9] Section 40 (1)

substitute

- (1) If a person keeps or possesses an unclassified computer game or a computer game classified RC on any premises where classified computer games are sold or demonstrated, the person and the occupier of the premises each commit an offence.

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

[1.10] Section 53 (1)

substitute

- (1) If—
- (a) an advertisement for a film classified R is published in a publication; and
 - (b) a film classified X is sold to a person responding to the advertisement;

the person who, without reasonable excuse, sells the film commits an offence.

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

[1.11] Section 54A, heading

substitute

54A Definitions for pt 6

[1.12] Section 54A (1)

insert

offence, against this Act, includes an offence against the Crimes Act 1900, part 8 (Aiding and abetting, accessories, attempts, incitement and conspiracy) in relation to an offence against this Act.

[1.13] Section 54A (1)

omit

(1) In

substitute

In

[1.14] Section 54A (2)

omit

[1.15] Section 54E (4) (d)

substitute

(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;

[1.16] Section 54N (1) (d) (ii)

substitute

(ii) that is punishable by a fine of at least 100 penalty units or imprisonment for at least 1 year; or

[1.17] Section 54T, heading

substitute

54T Meaning of *X film* for div 6.4

[1.18] Section 54V, penalty

substitute

Maximum penalty (subsection (2)): 1 penalty unit.

[1.19] Section 54W (4), penalty

substitute

Maximum penalty: 50 penalty units.

[1.20] Section 54Y, heading

substitute

54Y Definitions for div 6.5

[1.21] Section 54Y (1)

omit

(1) In

substitute

In

[1.22] Section 54Y (2)

renumber as section 54YA

[1.23] New section 54YA, heading

insert

54YA When proceedings for defined offence determined

[1.24] Section 54Y (3) to (5)

renumber as section 54YB (1) to (3)

[1.25] New section 54YB, heading

insert

54YB Extension of defined period

[1.26] Section 60

omit

[1.27] New dictionary

insert

Dictionary

(see s 2)

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

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

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

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

exhibit, a film in a public place—see section 4.

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

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

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

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

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

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

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

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

X film, for division 6.4 (Enforcement)—see section 54T.

[1.28] Renumbering of divisions

renumber divisions when Act next republished under Legislation Act 2001

Endnotes

Act amended

- 1 Republished as in force on 31 December 1997.

Penalty units

- 2 The *Interpretation Act 1967*, s 33AA deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 15 June 2001]