

**EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY
CLASSIFICATION OF PUBLICATIONS (AMENDMENT)
ORDINANCE (No 2) 1989.**

No. 48, 1989

The Classification of Publications Ordinance 1983 (the Principal Ordinance) provides for the classification of publications (including films and videos) and regulation of availability for sale and hire of classified publications.

The Classification of Publications (Amendment) Ordinance (No 2) 1989 (the Ordinance) amends the Principal Ordinance in order to remove those provisions which deal with matters the responsibility of the Minister for the Arts and Territories. Those provisions relate primarily to the availability in the ACT of publications for sale and hire, and enforcement of the law. The substance of those provisions is included in the Publications Control Ordinance 1989. After the introduction of Self-government for the ACT the entire Principal Ordinance will become the responsibility of the Attorney-General.

The Ordinance also corrects some minor drafting inconsistencies and anomalies in the Principal Ordinance.

Details of the Ordinance are as follows.

Section 1 provides that the Ordinance may be cited as the Classification of Publications (Amendment) Ordinance (No 2) 1989.

Section 2 provides that the Ordinance will commence on the date fixed by the Minister by notice in the Gazette.

Section 3 provides that the Principal Ordinance means the Classification of Publications Ordinance 1983.

Section 4 amends several definitions contained in section 3 of the Principal Ordinance.

Section 5 amends section 10 of the Principal Ordinance to include a feminine pronoun where there is a masculine pronoun and to otherwise make the language gender neutral, in order to reflect current drafting practice.

Section 6 amends section 17 of the Principal Ordinance, which is an interpretation provision, so that "publication" in Division 1 of Part III includes advertising matter in relation to a film.

Section 7 amends section 20 of the Principal Ordinance to make the language gender neutral.

Section 8 amends section 28 of the Principal Ordinance by removing the list of circumstances in which advertising matter

may not be approved and providing instead that approval may not be given where the advertising matter is an objectionable publication. That term is defined in section 3 and refers to all the material covered in the list to be omitted by the Ordinance.

Section 9 amends section 30 of the Principal Ordinance in order to make the language gender neutral.

Section 10 amends section 34 of the Principal Ordinance.

Subsection 34(2) is amended to make the language gender neutral.

Subsection 34(4) is amended by inserting "other than advertising matter in relation to a film" after the word "publication", so that it refers to classification of publications other than advertisements for films. It is necessary to do this so that the subsection retains its existing effect as subsection 34(5), which is an interpretation provision, is amended to provide that "publication" includes advertising matter in relation to a film for the purposes of section 34 of the Principal Ordinance.

Section 11 amends section 35 of the Principal Ordinance to refer to the Publications Control Ordinance 1989.

Paragraph 35(3)(b) of the Principal Ordinance refers to a restricted publications area which will be defined and regulated under the Publications Control Ordinance 1989.

Section 12 repeals Parts IV and V and sections 56, 57, 57A and 58 of the Principal Ordinance. The substance of all the provisions except section 58 is included in the Publications Control Ordinance 1989. Section 58 abolishes certain common law offences and, as their abolition become effective when the section came into operation, it is not necessary to re-enact the provision.

Section 13 amends section 59 of the Principal Ordinance to make the language gender neutral.

Section 14 amends section 61 of the Principal Ordinance to remove the requirement for the annual report of the Publications Review Board to be laid before the Australian Capital Territory House of Assembly and replace it with a requirement that the Attorney-General shall cause a copy of the annual report to be laid before the Legislative Assembly for the Australian Capital Territory within 15 sitting days of the report being provided.

Section 15 repeals sections 62 and 63 of the Principal Ordinance which deal with amendments and repeals of other Ordinances and which are no longer required.

Section 16 amends section 64 of the Principal Ordinance, which creates the regulation making power, by removing the reference to requirements for the construction, conduct and management of restricted publications areas. Those provisions are contained in the Publications Control Ordinance 1989.

Section 17 amends a number of provisions of the Principal Ordinance by inserting a feminine pronoun where a masculine pronoun appears so that the provisions make equal reference to male and female, and thus comply with modern drafting practice.

Section 18 repeals section 5 of the Administrative Arrangements (Consequential Amendments) Ordinance 1987 and Schedule 1 to that Ordinance. Those provisions amended the Principal Ordinance so that certain areas of law contained in that Ordinance were the responsibility of the Minister and others were the responsibility of the Attorney-General. With the introduction of the Ordinance and the Publications Control Ordinance 1989 those provisions are no longer be required.