

# NORTHERN TERRITORY OF AUSTRALIA

## CLASSIFICATION OF PUBLICATIONS, FILMS AND COMPUTER GAMES ACT

As in force at 30 March 1998

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 30 March 1998

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## CLASSIFICATION OF PUBLICATIONS, FILMS AND COMPUTER GAMES ACT

**An Act to provide for the classification of publications including films for public release and video tapes or video discs and for other purposes**

### **Part I Preliminary**

#### **1 Short title**

This Act may be cited as the *Classification of Publications, Films and Computer Games Act*.

#### **2 Commencement**

The several Parts or sections of this Act shall come into operation on such dates as are respectively fixed by the Administrator by notice in the *Gazette*.

#### **3 Definitions**

In this Act, unless the contrary intention appears:

**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.

**adult** means a person who has attained the age of 18 years.

**advertisement** has the same meaning as in the Commonwealth Act.

**approved advertisement** means an advertisement approved under section 29 of the Commonwealth Act.

**approved form** means a form approved by the National Director and published in the *Commonwealth of Australia Gazette*.

**business day** means a day other than a Saturday or a Sunday or other public holiday under the *Public Holidays Act*.

**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.

**Chairman** means the Chairman of the Territory Board and, in relation to a meeting of the Board, includes the Deputy Chairman or other member while presiding at the meeting.

**classification certificate** means a certificate issued under section 25 of the Commonwealth Act.

**classified** means classified under the Commonwealth Act and includes re-classified under that Act.

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

**computer game** has the same meaning as in the Commonwealth Act.

**consumer advice** means consumer advice determined under section 20 of the Commonwealth Act for the film or game.

**contentious material** has the same meaning as in the Commonwealth Act.

**court** means the Court of Summary Jurisdiction.

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

**Deputy Director** means the Deputy Director of the National Board.

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

**exhibit**, in relation to a film, means project or screen.

**film** has the same meaning as in the Commonwealth Act.

**guardian** means an adult who is exercising parental control over a minor who has not attained the age of 15 years.

**member** means a member of the Territory Board and includes the Chairman and a person appointed under section 12(1) to act as a member while the person is so acting.

**minor** means a person who has not attained the age of 18 years.

**National Board** means the Classification Board established by the Commonwealth Act.

**National Director** means Director of the National Board.

**place** includes vacant land, premises, a vehicle, a vessel and an aircraft.

**publication** has the same meaning as in the Commonwealth Act.

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

**publish** has the same meaning as in the Commonwealth Act.

**restricted publications area** means premises, or a part of premises, constructed and managed in accordance with section 55.

**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** has the same meaning as in the Commonwealth Act and includes a publication called in by the National Director under section 50ZM of this Act.

**Territory Board** means the Publications and Film Review Board established by section 7.

### **3A Exhibition of film**

For the purposes of 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.

### **4 Application**

This Act does not apply to broadcasting services to which the *Broadcasting Services Act 1992* of the Commonwealth applies.

## **Part II Administration**

### **4A Delegations**

- (1) The Minister may, in writing, delegate any of the Minister's powers and functions under this Act, other than this power of delegation:
  - (a) to a named person, body corporate or statutory body; or
  - (b) to the person, from time to time or for the time being, holding, acting in or performing the duties of a named office, designation or position.
- (2) A power or function delegated under this section when exercised or performed by the delegate shall, for the purposes of this Act, be deemed to be exercised or performed by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

### **7 Establishment of publications and Films Review Board**

There is established by this Act a Board by the name of the Publications and Films Review Board.

### **8 Composition of Board and appointment of members**

- (1) The Board shall consist of 5 members of whom at least:
  - (a) one shall be a woman;
  - (b) one shall be a man;
  - (c) one shall be a legal practitioner; and
  - (d) one shall have qualifications, satisfactory to the Minister, in literature, art or education.
- (2) The Minister may, by notice in the *Gazette*, appoint a person to be a member.
- (4) The exercise of a power or the performance of a function of the Board is not affected by reason only of there being a vacancy or vacancies in the membership of the Board.

### **9 Chairman**

- (1) The Minister shall appoint a member to be the Chairman and another member to be the Deputy Chairman of the Board.



- (2) The Chairman or, in his absence the Deputy Chairman, shall preside at meetings of the Board at which he is present.
- (3) In the absence of the Chairman and Deputy Chairman, the members present at a meeting of the Board shall elect one of their number to be the acting Chairman, and that person may exercise the powers and perform the duties of the Chairman for that meeting.
- (4) Where the person holding office as Chairman or Deputy Chairman ceases to be a member, he shall cease to be the Chairman or Deputy Chairman.

#### **10 Resignation of members**

A member may resign his office by writing signed by him and delivered to the Minister.

#### **11 Dismissal of members**

Without limiting the Minister's general power to terminate the appointment of a member, the Minister shall terminate the appointment of a member where the member:

- (a) is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board; or
- (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds which his creditors or makes an assignment of his remuneration for their benefit.

#### **12 Acting appointment**

- (1) Where a member is or is expected to be absent from duty or from the Territory, the Minister may appoint a person to act as a member during the absence.
- (2) The Minister may at any time terminate an appointment made under subsection (1).
- (3) The validity of a decision of the Board shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

**13 Disclosure of interest**

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Board, and the member:
  - (a) shall not, while he has that interest, take part after the disclosure in any deliberation or decision of the Board; and
  - (b) shall be disregarded for the purpose of constituting a quorum of the Board,in relation to that matter.

**14 Protection of members**

An action or proceeding, civil or criminal, does not lie against a member for or in respect of any act or thing done in good faith by him in his capacity as a member.

**15 Meetings of Board**

- (1) The Chairman shall call such meetings of the Board as are necessary for the exercise of its powers and the performance of its function.
- (2) The Minister, may at any time, direct the Chairman to convene a meeting of the Board and the Chairman shall convene a meeting in accordance with that direction.
- (3) At a meeting of the Board:
  - (a) 3 members constitute a quorum;
  - (b) questions arising shall be determined by a majority of the votes of the members present and voting and, in the event of an equality of votes, the person presiding at the meeting shall, in addition to his deliberative vote, have a casting vote; and
  - (c) subject to this Act, the Board shall determine the procedure to be followed at or in connection with the meeting.
- (4) The Board shall keep records of its meetings.

**16 Functions and powers of Territory Board**

- (1) In relation to any matter not subject to an arrangement between the Territory and the Commonwealth referred to in section 4 of the Commonwealth Act, the Territory Board has, in the Territory, the same powers and functions as the National Board and the Commonwealth Act, with the necessary changes, shall apply to and in relation to such a matter as if:
  - (a) the Commonwealth Act were a law of the Territory;
  - (b) the Minister were the Commonwealth Minister;
  - (c) the Territory Board were the National Board;
  - (d) the *Gazette* were the *Commonwealth of Australia Gazette*; and
  - (e) the holders from time to time of the respective designations declared under subsection (2) were the National Director and the Deputy Director.
- (2) The Minister may, by notice in the *Gazette*, declare designations in an Agency or Agencies within the meaning of the *Public Sector Employment and Management Act* for the purposes of subsection (1)(e).

**17 Reports**

- (1) The Board may at any time report to the Minister on a matter connected with this Act.
- (2) The Board shall, when required to do so by the Minister, report as soon as practicable:
  - (a) on a matter connected with this Act; or
  - (b) on the operation of this Act during a period of 12 months ending with 31 December.
- (3) A report referred to in subsection (1) or (2) shall be tabled in the Legislative Assembly by the Minister within 3 sitting days of the Assembly after it has been received by him.

### **Part III                    Arrangements with Commonwealth**

#### **25                    Arrangements with Commonwealth for censoring films, &c.**

- (1) The Minister may make such arrangements as he thinks fit with the Commonwealth relating to the classification of publications, films and computer games.
- (2) An arrangement under this section may make provision for all or any matters necessary or convenient to be provided for or incidental to carrying out the arrangement.
- (3) The Minister shall cause notice of the making of an arrangement under this section to be published in the *Gazette*.
- (4) Notwithstanding anything to the contrary in this Act, an arrangement made under this section shall have effect according to its tenor, and in proceedings under this Act the production of a copy of the *Gazette* notice referred to in subsection (3) is prima facie evidence that an arrangement has been made and is still operative.

### **Part IV                    Films – exhibition, sale, &c.**

#### **Division 1            Exhibition of Films**

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

A person shall not exhibit a film in a public place unless the film:

- (a) is classified;
- (b) is exhibited with the same title as that under which it is classified; and
- (c) is exhibited in the form, without alteration or addition, in which it is classified.

Penalty:        \$10,000 or imprisonment for 2 years.

#### **36                    Display of notice about classifications**

A person who exhibits a film in a public place shall keep a notice in the approved form about classifications for films on display in a prominent place in that public place so that the notice is clearly visible to the public.

Penalty:        \$2,000.

**37            Exhibition of RC and X films**

- (1) A person shall not exhibit in a public place a film classified RC.

Penalty:        \$10,000 or imprisonment for 2 years.

- (2) A person shall not exhibit in a public place a film classified X except in a restricted publication area prescribed by the Minister for the purposes of this section.

Penalty:        \$10,000 or imprisonment for 2 years.

**38            Exhibition of unclassified, RC and X films**

A person shall not exhibit in a public place so that it can be seen from a public place:

- (a) an unclassified film which would, if classified, be classified RC or X; or  
(b) a film classified RC or X.

Penalty:        \$10,000.

**39            Prohibition of exhibition of R or MA films in certain places**

- (1) The Minister may prohibit the exhibition of a film classified R or MA:

- (a) in a drive-in theatre; or  
(b) in any other public place if, in the Minister's opinion, it is possible to see a film from an ordinary vantage point outside the place when it is exhibited in the place.

- (2) A prohibition under this section:

- (a) may relate to a specified film or class of films and to drive-in theatres generally or a specified drive-in theatre or other place; and  
(b) may be imposed, varied or revoked by notice in the *Gazette* or by notice in writing served on the person who exhibits film in the theatre or place to which the notice relates.

- (3) A person shall not exhibit a film in contravention of a notice under this section.

Penalty:        In respect of a film classified MA – \$1,000

                    In respect of a film classified R – \$2,000.

**40            Attendance of minor at certain films – offence by parents, &c.**

A person who:

- (a) is a parent or guardian of a minor; and
- (b) knows that a film classified RC, X or R, or an unclassified film that would, if classified, be classified RC, X or R, is to be exhibited in a public place,

shall not permit the minor to attend the exhibition of the film.

Penalty:        \$2,000.

**41            Attendance of minor at certain films – offence by minor**

A minor who has attained the age of 15 years shall not attend the exhibition in a public place of a film classified RC, X or R, knowing that the film is so classified.

Penalty:        \$2,000.

**42            Private exhibition of certain films in presence of minor**

- (1) A person shall not exhibit in a place, other than a public place, in the presence of a minor a film classified RC, X or R or an unclassified film that would, if classified, be classified RC, X or R.

Penalty:        \$2,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the defendant believed, on reasonable grounds, that the minor was an adult.

**43            Attendance of minor at R film – offence by exhibitor**

- (1) A person shall not exhibit in a public place a film classified R if a minor is present during any part of the exhibition.

Penalty:        \$2,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that:
  - (a) the minor produced to the defendant or the defendant's employee or agent acceptable proof of age before the minor was admitted to the public place; or
  - (b) the defendant or the defendant's employee or agent believed, on reasonable grounds, that the minor was an adult.

**44            Attendance of minor at ma film – offence by exhibitor**

- (1) A person shall not exhibit in a public place a film classified MA if:
- (a) a minor who has not attained the age of 15 years is present during any part of the exhibition; and
  - (b) the minor is not accompanied by his or her parent or guardian.

Penalty:        \$1,000.

- (2) For the purposes of subsection (1):
- (a) a minor does not cease to be accompanied if the minor's parent or guardian is temporarily absent from the exhibition of the film; and
  - (b) an offence is committed in respect of each unaccompanied minor present at the exhibition of the film.
- (3) It is a defence to a prosecution for an offence against subsection (1) to prove that:
- (a) the defendant or the defendant's employee or agent took all reasonable steps to ensure that a minor was not present in contravention of subsection (1);
  - (b) the defendant or the defendant's employee or agent believed, on reasonable grounds, that the minor had attained the age of 15 years; or
  - (c) the defendant or defendant's employee or agent believed, on reasonable grounds, that the person accompanying the minor was the minor's parent or guardian.

**Division 2            Sale of Films**

**45            Sale of films**

A person shall not sell a film unless the film:

- (a) is classified;
- (b) is sold under the same title as that under which it is classified; and
- (c) is sold in the form, without alteration or addition, in which it is classified.

Penalty:        \$10,000 or imprisonment for 2 years.

**46            Display of notice about classifications**

A person who sells films on any premises shall keep a notice in the approved form about classifications for films on display in a prominent place on the premises so that the notice is clearly visible to the public.

Penalty:        \$1,000.

**47            Films to bear determined markings and consumer advice**

- (1) A person shall not sell a film unless the determined markings relevant to the classification of the film and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the film.

Penalty:        \$2,000.

- (2) A person shall not sell an unclassified film if the container, wrapping or casing in which it is sold bears a marking that indicates or suggests that the film has been classified.

Penalty:        \$2,000.

- (3) A person shall not sell a classified film if the container, wrapping or casing in which it is sold bears a marking that indicates or suggests that the film is unclassified or has a different classification.

Penalty:        \$2,000.

- (4) If a film is reclassified under section 39 of the Commonwealth Act, display of the determined markings and consumer advice applicable to the film before reclassification is sufficient compliance with this section for a period of 30 days after the decision to reclassify takes effect.

**48            Keeping unclassified or RC films with other films**

- (1) If a person keeps or possesses an unclassified film or a film classified RC on any premises where classified films are sold, the person and the occupier of the premises are each guilty of an offence.

Penalty:        \$10,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the defendant did not know, and could not reasonably have known, that the film was on the premises.



**49            X films**

If a film is classified X, a person shall not:

- (a) display the film for display or hire, except in a restricted publication area located in premises in an area prescribed by the Minister for the purposes of this section;
- (b) sell or hire the film to a person who has not made a direct request for it; or
- (c) sell or hire the film unless it is contained in a package made of opaque material.

Penalty:        \$5,000.

**50            Sale or delivery of certain films to minors**

- (1) A person shall not sell or deliver to a minor a film classified RC or an unclassified film which would, if classified, be classified RC.

Penalty:        \$15,000.

- (2) A person shall not sell or deliver to a minor a film classified X or R, unless the person is a parent or guardian of the minor.

Penalty:        \$5,000.

- (3) It is a defence to a prosecution for an offence against subsection (2) to prove that:

- (a) the minor produced to the defendant or the defendant's employee or agent acceptable proof of age before the defendant sold or delivered the film to the minor and the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was an adult; or
- (b) in the case of a film classified R, the minor was employed by the defendant or the defendant's employer and the delivery took place in the course of that employment.

- (4) A minor who has attained the age of 15 years shall not buy a film classified RC, X or R, knowing that it is so classified.

Penalty:        \$2,000.

- (5) A person shall not sell or deliver to a minor who has not attained the age of 15 years a film classified MA unless the person is a parent or guardian of the minor.

Penalty:        \$2,000.

- (6) It is a defence to a prosecution for an offence against subsection (5) to prove that the defendant or the defendant's employee or agent believed on reasonable grounds that:
- (a) the minor had attained the age of 15 years; or
  - (b) the parent or guardian of the minor had consented to the sale or delivery.

### **Division 3            Miscellaneous**

#### **50A            Power to demand particulars and expel minors**

- (1) A person exhibiting, selling or delivering films who has reasonable cause to suspect that the exhibition, sale or delivery of a film to another person is, or would be, in contravention of this Part may demand the name, age and address of the other person.
- (2) A member of the Police Force who has reasonable cause to suspect that the exhibition, sale or delivery of a film to a person is, or would be, in contravention of this Part may demand the person's name, age and address.
- (3) A person shall not give false particulars or fail or refuse to give satisfactory particulars demanded under subsection (1) or (2).

Penalty:        \$500.

- (4) If the exhibitor of a film that is being, or is about to be, exhibited in a public place, or an employee or agent of the exhibitor, or a member of the Police Force, suspects on reasonable grounds that a person's presence during the exhibition of the film is, or would be, in contravention of this Part, the exhibitor, employee, agent or member of the Police Force may:
- (a) require the person to leave the place; and
  - (b) if the person fails to comply with such a requirement – use reasonable force to expel the person from the place.
- (5) A person shall not fail to comply with a requirement under subsection (4).

Penalty:        \$500.

**50B Leaving films in certain places**

A person shall not leave in a public place or, without the occupier's permission, on private premises:

- (a) an unclassified film that would, if classified, be classified RC, X, R or MA; or
- (b) a film classified RC, X, R or MA,

knowing that the film is, or would be, so classified.

Penalty: In the case of a film classified MA or an unclassified film that would, if classified, be classified MA – \$1,000.

In any other case – \$10,000 or imprisonment for 2 years.

**50C Possession or copying of film for purpose of sale or exhibition**

(1) A person shall not possess:

- (a) an unclassified film that would, if classified, be classified RC or R; or
- (b) a film classified RC,

with the intention of selling or exhibiting the film or copy.

Penalty: \$10,000 or imprisonment for 2 years.

(2) It is a defence to a prosecution for an offence against subsection (1) to prove that since the offence is alleged to have been committed the film has been classified X, R, MA, M, PG or G.

(3) In proceedings for an offence against this section, evidence that a person made 10 or more copies of an unclassified film is evidence that the person intended to exhibit the film in contravention of this Part or sell the film and, in the absence of evidence to the contrary, is proof of that fact.

**Part V Publications – sale, delivery, &c.****50D Sale of unclassified or RC publications**

(1) A person shall not sell or deliver (other than for the purpose of classification or law enforcement):

- (a) a submittable publication; or

(b) a publication classified RC,

knowing that it is such a publication.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution for an offence against subsection (1) in relation to a submittable publication to prove that since the offence was alleged to have been committed the publication has been classified Unrestricted.

#### **50E Category 1 restricted publications**

- (1) A person shall not sell or deliver a publication classified Category 1 restricted unless:
- (a) it is contained in a sealed package made of opaque material; and
  - (b) both the publication and the package bear the determined markings.

Penalty: \$5,000 or imprisonment for 12 months.

- (2) If a publication is reclassified under section 39 of the Commonwealth Act, it is sufficient compliance with subsection (1) for a period of 30 days after the decision to reclassify takes effect if the publication bears the determined markings applicable to the publication before reclassification.

#### **50F Category 2 restricted publications**

- (1) A publication classified Category 2 restricted shall not be:
- (a) sold, displayed or delivered except in a restricted publications area;
  - (b) delivered to a person who has not made a direct request for the publication;
  - (c) delivered to a person unless it is contained in a package made of opaque material; or
  - (d) published unless it bears the determined markings.
- (2) A person shall not sell, display, deliver or publish a publication in contravention of subsection (1).

Penalty: \$5,000 or imprisonment for 12 months.

- (3) If a publication is reclassified under section 39 of the Commonwealth Act, it is sufficient compliance with subsection (1)(d) for a period of 30 days after the decision to reclassify takes effect if the publication bears the determined markings applicable to the publication before reclassification.

#### **50G Misleading or deceptive markings**

- (1) A person shall not publish an unclassified publication with a marking, or in packaging with a marking, that indicates or suggests that the publication has been classified.

Penalty: \$5,000 or imprisonment for 12 months.

- (2) A person shall not publish a classified publication with a marking, or in packaging with a marking, that indicates or suggests that the publication is unclassified or has a different classification.

Penalty: \$5,000 or imprisonment for 12 months.

- (3) If a publication is reclassified under section 39 of the Commonwealth Act, it is sufficient compliance with this section for a period of 30 days after the decision to reclassify takes effect if the publication bears the determined markings applicable to the publication before reclassification.

#### **50H Sale of certain publications to minors**

- (1) A person shall not sell or deliver to a minor a publication classified Category 1 restricted or Category 2 restricted unless the person is a parent or guardian of the minor.

Penalty: \$5,000 or imprisonment for 12 months.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the minor produced to the defendant acceptable proof of age before the defendant sold or delivered the publication to the minor and the defendant believed on reasonable grounds that the minor was an adult.

#### **50I Leaving or displaying publications in certain places**

- (1) A person shall not leave in a public place or, without the occupier's permission, on private premises, or display in such a manner as to be visible to persons in a public place:

(a) a submittable publication; or

(b) a publication classified Category 1 restricted, Category 2 restricted or RC,

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knowing that it is such a publication.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that:
- (a) since the offence was alleged to have been committed, the publication has been classified Unrestricted;
  - (b) in the case of a publication classified Category 1 restricted, the public place was a shop or stall and the publication and packaging complied with section 50E(1); or
  - (c) in a case where a publication classified Category 2 restricted was left or displayed in a public place, the defendant believed on reasonable grounds that the public place was a restricted publications area.

**50J Possession or copying of publication for purpose of publishing**

- (1) A person shall not possess or copy:

- (a) a submittable publication; or
- (b) a publication classified RC,

with the intention of selling the publication or the copy.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that since the offence was alleged to have been committed the publication has been classified Unrestricted, Category 1 restricted or Category 2 restricted.

**Part VI Computer games – sale, demonstration, &c.**

**50K Sale or demonstration of computer game in public place**

A person shall not sell a computer game, or demonstrate a computer game in a public place, unless the game:

- (a) is classified;
- (b) is sold or distributed with the same title as that under which it is classified; and

- (c) is sold or distributed in the form, without alteration or addition, in which it is classified.

Penalty: \$10,000 or imprisonment for 2 years.

**50L Display of notice about classification**

A person who sells or demonstrates a computer game in a public place shall keep a notice in the approved form about classifications for computer games on display in a prominent place in that public place so that the notice is clearly visible to the public.

Penalty: \$1,000.

**50M Unclassified and RC computer games**

- (1) A person shall not:

- (a) sell; or  
(b) demonstrate in a public place,

a computer game classified RC or an unclassified computer game that would, if classified, be classified RC.

Penalty: \$10,000.

- (2) A minor who has attained the age of 15 years shall not buy a computer game classified RC knowing that it is so classified.

Penalty: \$200.

**50N MA (15+) computer games**

A person shall not demonstrate a computer game classified MA (15+) in a public place unless:

- (a) the determined markings are exhibited before the game can be played; and  
(b) entry to the place is restricted to adults or to minors who are in the care of a parent or guardian while in the public place.

Penalty: \$500.

**50P Demonstration of unclassified, RC and MA (15+) computer games**

A person shall not demonstrate so that it can be seen from a public place:

- (a) an unclassified computer game that would, if classified, be classified RC or MA (15+); or
- (b) a computer game classified RC or MA (15+).

Penalty: \$1,000.

**50Q Private demonstration of RC computer games in presence of minor**

- (1) A person shall not demonstrate in a place, other than a public place, in the presence of a minor:

- (a) an unclassified computer game that would, if classified, be classified RC; or
- (b) a computer game classified RC.

Penalty: \$2,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the defendant believed, on reasonable grounds, that the minor was an adult.

**50R Computer games to bear determined markings and consumer advice**

- (1) A person shall not sell a computer game unless the determined markings relevant to the classification of the game and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the game.

Penalty: \$2,000.

- (2) A person shall not sell an unclassified computer game if the container, wrapping or casing in which the game is sold bears a marking that indicates or suggests that the game has been classified.

Penalty: \$2,000.



- (3) A person shall not sell a classified computer game if the container, wrapping or casing in which the game is sold bears a marking that indicates or suggests that the game is unclassified or has a different classification.

Penalty: \$2,000.

- (4) If a computer game is reclassified under section 39 of the Commonwealth Act, display of the determined markings and consumer advice applicable to the game before reclassification is sufficient compliance with this section for a period of 30 days after the decision to reclassify takes effect.

**50S Keeping unclassified or rc computer games with other computer games**

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

Penalty: \$10,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the defendant did not know, and could not reasonably have known, that the computer game was on the premises.

**50T Sale or delivery of certain computer games to minors**

- (1) A person shall not sell or deliver to a minor:
- (a) an unclassified computer game that would, if classified, be classified RC; or
  - (b) a computer game classified RC.

Penalty: \$15,000.

- (2) A person shall not sell or deliver to a minor who has not attained the age of 15 years a computer game classified MA (15+) unless the person is a parent or guardian of the minor.

Penalty: \$2,000.

- (3) It is a defence to a prosecution for an offence against subsection (2) to prove that the defendant or the defendant's employee or agent believed on reasonable grounds that:

- (a) the minor had attained the age of 15 years; or

- (b) the parent or guardian of the minor had consented to the sale or delivery.

**50U Power to demand particulars and expel unaccompanied minors under 15**

- (1) A person demonstrating, selling or delivering computer games who has reasonable cause to suspect that the demonstration, sale or delivery of a computer game to another person is, or would be, in contravention of this Part may demand the name, age and address of the other person.
- (2) A member of the Police Force who has reasonable cause to suspect that the demonstration, sale or delivery of a computer game to a person is, or would be, in contravention of this Part may demand the person's name, age and address.
- (3) A person shall not give false particulars or fail or refuse to give satisfactory particulars demanded under subsection (1) or (2).

Penalty: \$500.

- (4) If the demonstrator of a computer game classified MA (15+) that is being, or is about to be, demonstrated in a public place, or an employee or agent of the demonstrator, or a member of the Police Force, suspects on reasonable grounds that a person's attendance at the demonstration is, or would be, contrary to restrictions that the demonstrator is required to enforce under this Part, the demonstrator, employee, agent or member of the Police Force may:
  - (a) require the person to leave the place; and
  - (b) if the person fails to comply with such a requirement, use reasonable force to expel the person from the place.
- (5) A person shall not fail to comply with a requirement under subsection (4).

Penalty: \$500.

**50V Leaving computer games in certain places**

- (1) A person shall not leave in a public place or, without the occupier's permission, on private premises:
  - (a) an unclassified computer game that would, if classified, be classified RC; or
  - (b) a computer game classified RC,

knowing that the game would be, or is, so classified.

Penalty: \$10,000 or imprisonment for 2 years.

(2) A person shall not leave in a public place, or without the occupier's permission, on private premises:

(a) an unclassified computer game that would, if classified, be classified MA (15+); or

(b) a computer game classified MA (15+),

knowing that the game would be, or is, so classified.

Penalty: \$2,000.

**50W Possession or copying of computer game for the purpose of sale or demonstration**

(1) A person shall not possess or copy:

(a) an unclassified computer game that would, if classified, be classified RC; or,

(b) a computer game classified RC,

with the intention of demonstrating the game or copy in contravention of this Part or selling the game or copy.

Penalty: \$10,000 or imprisonment for 2 years.

(2) It is a defence to a prosecution for an offence against subsection (1) to prove that since the offence was alleged to have been committed the computer game has been classified MA (15+), M (15+), G (8+) or G.

(3) In proceedings for an offence against this section, evidence that a person made 10 or more copies of a computer game of a kind referred to in subsection (1) is evidence that the person intended to demonstrate the game in contravention of this Part or sell the game and, in the absence of evidence to the contrary, is proof of that fact.

**Part VII Computer services**

**50X Definition**

In this Division:

**code of practice** means a code of practice, as amended from time to time, approved and published under section 50Y.

**computer service** means a service provided by or through the facilities of a computer communication system allowing:

- (a) the input, output or examination of computer data or computer programmes;
- (b) the transmission of computer data or computer programmes from one computer to another; or
- (c) the transmission of computer data or computer programmes from a computer to a terminal device.

**objectionable material** means:

- (a) a film classified RC, a computer game classified RC or a refused publication;
- (b) child pornography;
- (c) an article that promotes crime or violence, or incites or instructs in matters of crime or violence; or
- (d) an article that describes or depicts, in a manner that is likely to cause offence to a reasonable adult:
  - (i) the use of violence or coercion to compel a person to participate in, or submit to, sexual conduct;
  - (ii) sexual conduct with or on the body of a dead person;
  - (iii) the use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct;
  - (iv) bestiality; or
  - (v) acts of torture or the infliction of extreme violence or extreme cruelty.

**restricted material** means an article that a reasonable adult, by reason of the nature of the article or the nature and extent of references in the article to matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena, would regard as unsuitable for a minor to see, read or hear.

## **50Y Codes of practice**

- (1) The Minister may approve a code of practice relating to computer services.
- (2) The Minister shall cause a copy of a code of practice approved under subsection (1) to be published in the *Gazette*.

- (3) The Minister may approve an amendment of a code of practice and on publication in the *Gazette* of the approved amendment the code is taken to be amended accordingly.
- (4) The Minister may, by notice in the *Gazette*, revoke the approval of a code of practice.

**50Z Objectionable material**

- (1) A person shall not use a computer service to:
  - (a) transmit an article knowing it to be objectionable material;
  - (b) obtain possession of an article knowing it to be objectionable material;
  - (c) demonstrate an article knowing it to be objectionable material;
  - (d) advertise that objectionable material is available for transmission; or
  - (e) request the transmission of objectionable material.

Penalty: \$10,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the article concerned is:
  - (a) an article of recognised literary, artistic or scientific merit; or
  - (b) a bona fide medical article,

and the transmission, obtaining possession of, demonstrating, advertising, or requesting the transmission of, the article is justified as being for the public good.

**50ZA Restricted material – offences**

- (1) A person shall not use a computer service to transmit restricted material to a minor.

Penalty: \$10,000.

- (2) A person shall not use a computer service to make restricted material available to a minor.

Penalty: \$10,000.

- (3) It is a defence to a prosecution for an offence against subsections (1) or (2) to prove that the defendant:
- (a) complied with a code of practice;
  - (b) took all reasonable steps in the circumstances to avoid a contravention of the subsection; or
  - (c) believed, on reasonable grounds, that:
    - (i) the person to whom the defendant transmitted the restricted material was not a minor; or
    - (ii) the restricted material would not be made available to a minor.

## **Part VIII Control of advertising**

### **50ZB Certain advertisements not to be published**

A person shall not publish an advertisement for a film, publication or computer game if the advertisement:

- (a) has not been submitted for approval under the Commonwealth Act and, if submitted, would be refused approval;
- (b) has been refused approval under the Commonwealth Act; or
- (c) if approved under the Commonwealth Act, it is published in an altered form to the form in which it is approved; or
- (d) if approved under the Commonwealth Act subject to conditions, it is published other than in accordance with those conditions.

Penalty: \$500.

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

- (1) A person shall not publish an advertisement for:
- (a) an unclassified film, other than a film in relation to which a certificate of exemption has been granted under Part 3 of the Commonwealth Act;
  - (b) a film classified RC;
  - (c) a submittable publication;

- (d) a publication classified RC;
- (e) an unclassified computer game; or
- (f) a computer game classified RC.

Penalty: \$5,000.

- (2) For the purposes of this section, if a person publishes an advertisement for an unclassified film or an unclassified computer game at the request of another person, that other person alone shall be taken to have published it.

### 50ZD Screening of advertisements with feature films

A person shall not screen in a public place an advertisement for a film during a program for the exhibition of another film (*the feature film*) unless the feature film has a classification specified in column 1 of an item in the Table and the advertised film has a classification specified opposite it in column 2 of that item.

TABLE

Item	Column 1 Feature Film	Column 2 Advertised film
1	G	G
2	PG	PG or G
3	M	M, PG or G
4	MA	MA, M, PG or G
5	R	R, MA, M, PG or G

Penalty: \$2,000.

### 50ZE Liability of occupier for certain advertisements

- (1) An occupier of a public place shall not screen in the public place an advertisement for a film classified X, R or MA.

Penalty: \$2,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that:
  - (a) if the advertised film is classified MA, the advertisement was screened during a program for the exhibition of a film classified R or MA;

- (b) if the advertised film is classified R, the advertisement was screened during a program for the exhibition of a film classified R; or
- (c) the place in which the advertisement was screened was a restricted publications area.

#### 50ZF Sale of feature films with advertisements

A person shall not sell a film (*the feature film*) that is accompanied by an advertisement for another film unless the feature film has a classification specified in column 1 of an item in the Table and the advertised film has a classification specified opposite it in column 2 of that item.

TABLE

Item	Column 1 Feature Film	Column 2 Advertised film
1	G	G
2	PG	PG or G
3	M	M, PG or G
4	MA	MA, M, PG or G
5	R	R, MA, M, PG or G

Penalty: \$2,000.

#### 50ZG Advertisements with computer games

- (1) A person shall not sell a computer game (*the main game*) that is accompanied by an advertisement for another computer game unless the main game has a classification specified in column 1 of an item in the Table and the advertised game has a classification specified opposite it in column 2 of that item.

TABLE

Item	Column 1 Main game	Column 2 Advertised computer game
1	G	G
2	G (8+)	G (8+) or G
3	M (15+)	M (15+), G (8+) or G



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4	MA (15+)	MA (15+), M (15+), G (8+) or G
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Penalty: \$2,000.

**50ZH Advertisement to contain determined markings and consumer advice**

- (1) A person shall not publish an advertisement for a classified film, classified publication or classified computer game unless:
- (a) the advertisement contains the determined markings relevant to the classification of the film, publication or game and relevant consumer advice, if any; and
  - (b) the determined markings and consumer advice are displayed:
    - (i) in the manner determined by the National Director under the Commonwealth Act; and
    - (ii) so as to be clearly visible, having regard to the size and nature of the advertisement.

Penalty: \$2,000.

- (2) If a film, publication or computer game is reclassified under the Commonwealth Act, display of the determined markings and consumer advice applicable to the film, publication or game before reclassification is sufficient compliance with subsection (1) for a period of 30 days after the decision to reclassify takes effect.

**50ZI Misleading or deceptive advertisements**

- (1) A person shall not publish an advertisement for an unclassified film, unclassified publication or unclassified computer game with a marking that indicates or suggests that the film, publication or game is classified.

Penalty: \$5,000.

- (2) A person shall not publish an advertisement for a classified film, classified publication or classified computer game with a marking that indicates or suggests that the film, publication or game is unclassified or has a different classification.

Penalty: \$5,000.

- (3) If a film, publication or computer game is reclassified under the Commonwealth Act, publication of the determined markings applicable to the film, publication or game before reclassification is sufficient compliance with subsection (2) for a period of 30 days

after the decision to reclassify takes effect.

#### **50ZJ Advertisements for category 2 restricted publications**

- (1) A person shall not publish an advertisement for a publication classified Category 2 restricted.

Penalty: \$5,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the advertisement was published:

- (a) in a publication classified Category 2 restricted; or
- (b) in a restricted publications area; or
- (c) by way of printed or written material delivered to a person at the written request of the person.

- (3) If an advertisement for a publication classified Category 2 restricted is published in a place other than a restricted publications area, the occupier of the place is guilty of an offence.

Penalty: \$2,000.

#### **50ZK Advertisement and X films**

- (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 sells the film is guilty of an offence.

Penalty: \$2,000.

- (2) A person shall not publish an advertisement for a film classified X if the advertisement explicitly depicts or describes sexual acts or fetishes unless:

- (a) the advertisement is contained in a sealed package made of plain opaque material bearing the words "WARNING: SEXUALLY EXPLICIT ADVERTISING", or words to the like effect, prominently displayed on the outside of the package; and

- (b) the package referred to in paragraph (a) is contained in another sealed package made of plain opaque material.

Penalty: \$2,000.

**50ZL Classification symbols, &c., to be published with advertisements**

A person shall not publish a publication containing an advertisement for:

- (a) a film;
- (b) a publication classified Category 1 restricted or Category 2 restricted; or
- (c) a computer game,

unless the publication also contains a list of the classification symbols and determined markings for films or publications or computer games respectively.

Penalty: \$2,000.

**Part IX National director's call – in powers**

**50ZM Calling in submittable publications for classification**

- (1) If:
- (a) the National Director has reasonable grounds to believe that a publication is a submittable publication; and
- (b) the publication is being published in the Territory, or the National Director has reasonable grounds to believe that it will be published in the Territory,

the National Director may, by notice in writing given to the publisher of the publication, require the publisher to submit an application for classification of the publication, or of subsequent issues of the publication, by the National Board.

- (2) The National Director shall cause notice of a decision under subsection (1) to be published in the *Commonwealth of Australia Gazette*.
- (3) A person to whom a notice under this section is given shall, within 3 business days after receiving the notice, comply with the notice.

Penalty: \$10,000.

- (4) It is a defence to a prosecution for an offence against subsection (3) to prove that the defendant did not intend:
- (a) to publish the publication in the Territory; or
  - (b) to cause, authorise, permit or license the publication to be published in the Territory.

**50ZN Calling in computer games for classification**

- (1) If:
- (a) the National Director has reasonable grounds to believe that a computer game is likely to contain contentious material; and
  - (b) the computer game is being published in the Territory, or the National Director has reasonable grounds to believe that it will be published in the Territory,

the National Director may, by notice in writing given to the publisher of the game, require the publisher to submit an application for classification of the game.

- (2) The National Director shall cause notice of a decision under subsection (1) to be published in the *Commonwealth of Australia Gazette*.
- (3) A person to whom a notice under this section is given shall, within 3 business days after receiving the notice, comply with the notice.

Penalty: \$10,000.

- (4) It is a defence to a prosecution for an offence against subsection (3) to prove that the defendant did not intend:
- (a) to publish the computer game in the Territory; or
  - (b) to cause, authorise, permit or license the computer game to be published in the Territory.

**50ZP Calling in advertisements**

- (1) The National Director may, by notice in writing given to:
- (a) the publisher of a publication that:
    - (i) the National Director has reasonable grounds to believe is a submittable publication; and

- (ii) is being published in the Territory, or the National Director has reasonable grounds to believe will be published in the Territory;
- (b) the publisher of a classified film that is being published in the Territory, or that the National Director has reasonable grounds to believe will be published in the Territory; or
- (c) the publisher of a computer game that is being published in the Territory, or that the National Director has reasonable grounds to believe will be published in the Territory,

require the publisher to submit to the National Board for approval a copy of every advertisement used or intended to be used in connection with the publishing.

- (2) A person to whom a notice under this section is given shall, within 3 business days after receiving the notice, comply with the notice.

Penalty: \$10,000.

- (3) It is a defence to a prosecution for an offence against subsection (2) to prove that the defendant did not intend:
  - (a) to publish the publication, film or computer game in the Territory; or
  - (b) to cause, authorise, permit or license the publication, film or computer game to be published in the Territory.

## **Part X Exemptions**

### **50ZQ Exemption of film, publication, computer game or advertisement**

The Minister or the National Director may, on application, direct in writing, giving reasons for his or her decision, that this Act does not apply, to the extent and subject to any condition specified in the direction, to or in relation to a film, publication, computer game or advertisement.

### **50ZR Exemption of approved organisation**

- (1) The Minister or the National Director may, on application under this section, direct in writing, giving reasons for his or her decision, that this Act does not apply, or any of the provisions of this Act do not apply, to an organisation approved under this Part in relation to the exhibition of a film at an event, where the film and the event are specified in the direction.

- (2) An application for a direction under subsection (1) may be made by an approved organisation and shall:
- (a) be in writing;
  - (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:
    - (i) a synopsis of the story or events depicted in the film; and
    - (ii) the prescribed fee.

**50ZS Ministerial directions or guidelines**

In considering whether to make a direction under this Part, the Minister or the National Director shall give effect to any directions or guidelines issued by the Minister in relation to the application of this Act.

**50ZT Organisation may be approved**

- (1) The Minister, by notice in the *Gazette*, or the National Director, by notice in the *Commonwealth of Australia Gazette*, may, on application, approve an organisation for the purposes of this Part.
- (2) In considering whether to approve an organisation, the Minister or National Director shall have regard to:
- (a) the purpose for which the organisation was formed;
  - (b) the extent to which the organisation carries on activities of a medical, scientific, educational, cultural or artistic nature;
  - (c) the reputation of the organisation in relation to the screening of films; and
  - (d) the conditions as to admission of persons to the screening of films by the organisation.
- (3) An approval takes effect on the date of publication of the notice referred to in subsection (1).
- (4) An approval may be revoked by the person who gave the approval if, because of a change in any matter referred to in subsection (2), the person considers that it is no longer appropriate that the organisation be approved.
- (5) The Minister or National Director, as the case may be, shall notify an organisation in writing of a decision to revoke an approval.

- (6) Revocation of an approval takes effect on the date of notification of the decision to revoke or on a later date specified in the notice.
- (7) The Minister or the National Director, as the case may be, shall, in writing, give to an organisation the reasons for his or her decision to approve the organisation under subsection (1) or revoke such an approval under subsection (4).

## **Part XI                    Sexual articles**

### **51                    Definition**

In this Part, **sexual article** means an article, material or compound, preparation, device or other thing, whether of the same or a different kind or nature, that is primarily concerned with or is used or intended to be used in connection with sexual behaviour, but does not include a publication.

### **52                    Display of sexual articles**

- (1) A person who carries on or manages a business an object of which is the sale or distribution of sexual articles, or an employee of such a person shall not:
  - (a) display the sexual article;
  - (b) permit a sexual article to be displayed; or
  - (c) place or leave a sexual article in such a position that it can readily be seen by persons,in a public place.
- (2) It is a defence to a prosecution for an offence against subsection (1) that the display of the sexual article was only to a person who requested that the article be displayed to him or consented to the display to him of the article.
- (3) It is a defence to a prosecution for an offence against subsection (1) that:
  - (a) the defendant carried on or managed, at the time of the commission of the offence, a prescribed business;
  - (b) the business was being carried on in accordance with the prescribed conditions, if any; and

- (c) the display, permitting, placing or leaving constituting the offence was done only as part of the carrying on of that business.

### **53 Advertising sexual articles**

- (1) A person who carries on or manages a business an object of which is the sale or distribution of sexual articles, or an employee of such a person, shall not advertise, attempt to advertise or counsel or procure a person to advertise in any manner the nature of that object of the business.
- (2) It is a defence to a prosecution for an offence against subsection (1) that the object of the business was made known only to a person or the employee of a person who carries on a business or practises a profession ordinarily involving the sale or distribution of sexual articles.
- (3) It is a defence to a prosecution for an offence against subsection (1) that:
  - (a) the defendant carried on or managed, at the time of the commission of the offence, a prescribed business;
  - (b) the business was being carried on in accordance with the prescribed conditions, if any, in relation to that business; and
  - (c) the advertising, attempt, counselling or procuring constituting the offence was done only as part of the carrying on of the business.

### **54 Penalty**

A person who contravenes or fails to comply with section 52 or 53 is guilty of an offence.

Penalty: In the case of a body corporate:

a first offence – \$2,500;

for a second or subsequent offence – \$5,000.

In the case of an individual:

for a first offence – \$1,000 or imprisonment for 6 months;

for a second or subsequent offence – \$2,000 or imprisonment for 12 months.



**Part XII                      Restricted publication area****55                      Restricted publication area – construction and management**

- (1) A restricted publication area shall be so constructed that no part of the interior of the area is visible to a person outside of the area.
- (2) Each entrance to a restricted publication area shall be:
  - (a) fitted with a gate or door capable of excluding persons from the area; and
  - (b) closed by means of that gate or door when the area is not open to the public.
- (3) A restricted publication area shall 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 publication area shall cause a notice in the form in the Schedule, in legible letters not less than 15 mm in height and of a colour that contrasts with the background colour of the notice, to be displayed in a prominent place on or near each entrance to the area, so that it is clearly visible from outside the area.
- (5) A person shall not employ a minor as the manager of, or employ a minor or allow a minor to be employed in, a restricted publication area.

Penalty:        \$2,000.

**56                      Restricted publications area – offences**

- (1) The manager of a restricted publications area shall not permit a minor to enter the area.  
  
Penalty:        \$1,000.
- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the defendant believed, on reasonable grounds, that the minor was an adult.
- (3) The manager of a restricted publications area shall not exhibit, or cause or permit to be exhibited, in the area a film classified R or X except by means of a slot-machine operated by a coin or token.

Penalty:        \$1,000.

**Part XIII      Production or copying of films classified "X",  
&c.**

**Division 1      Registration**

**56A      Interpretation**

- (1) For the purposes of this Division:

***produce*** means to provide creative, technical or theatrical services including scripting, directing, filming and performing whether or not for a fee, reward or other consideration.

**56B      Offence relating to production of film or computer game  
classified "X", &c.**

- (1) A person shall not participate in the production of a film or computer game that is, or is likely to be, classified "X" or refused classification.

Penalty:      \$20,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves on the balance of probabilities that the defendant believes and always believed that the film or computer game, the result of the production:

- (a) is classified, or is intended (and always was intended) to be presented for classification and that it is classified, or is expected to be classified, other than as an "X" film or computer game and is not expected to be refused classification; or
- (b) is not intended, and was never intended, to be published or made available for publication.

**56C      Copying of films or computer games classified "X", &c.**

A person shall not copy or cause to be copied in the Territory, for the purposes of publication, a film or computer game that is classified "X", has been refused classification or that is not classified.

Penalty:      \$20,000 in respect of each copy taken.

## **Part XIV Search, seizure and forfeiture**

### **57 Interpretation**

- (1) For the purposes of this Part, a thing is connected with an offence if it is a thing:
  - (a) in relation to which the offence has been committed;
  - (b) that will afford evidence of the commission of the offence; or
  - (c) that was used, or is intended to be used, for the purpose of committing the offence.
- (2) A reference in this Part to an offence shall be read as including a reference to an offence that there are reasonable grounds for believing has been, or is about to be, committed.

### **58 Search and seizure**

A member of the Police Force may enter on land, or on or into premises, and may search for and seize a thing that he believes on reasonable grounds to be connected with an offence against this Act that is found on the land or on or in the premises if, and only if, the search and seizure is made by the member of the Police Force:

- (a) in pursuance of a warrant issued under the *Police Administration Act*, or
- (b) after obtaining the consent, voluntarily given, of the occupier or the person in charge of the land or premises.

### **59 Consent to search**

- (1) Before obtaining the consent of a person for the purpose of section 58, a member of the Police Force shall inform the person that he may refuse to give his consent.
- (2) A member of the Police Force who obtains the consent of a person for the purposes of section 58 shall ask the person to sign an acknowledgment of:
  - (a) the fact that he has been informed that he may refuse to give his consent;
  - (b) the fact that he has voluntarily given his consent; and
  - (c) the date on which, and the time at which, he gave his consent.

- (3) Where it is material, in any proceedings, for the Court to be satisfied of the voluntary consent of a person for the purposes of section 58 and an acknowledgment, in accordance with subsection (2), signed by the person has not been produced in evidence, the Court shall assume, unless the contrary is proved, that the person did not voluntarily give his consent.

## **60 Forfeiture**

- (1) If a person is charged with an offence against this Act and the court is satisfied that the person committed the offence, the court may order that the film, publication, computer game or sexual article to which the offence relates is forfeited to the Territory.
- (2) If a film, publication, computer game or sexual article has been lawfully seized by a member of the Police Force but no person has been charged with an offence in respect of it, a member of the Police Force shall apply, within 60 days after the seizure, to the court for the issue of a summons under subsection (3).
- (3) On an application under subsection (2), the court shall issue a summons requiring the occupier of the place from which or the person from whom, the film, publication, computer game or sexual article was seized, or both, to show cause why it should not be forfeited to the Territory.
- (4) If the court issues a summons, it shall cause notice of the proceeding to be given, if practicable, to each person whose name appears on the film, publication, computer game or sexual article as its author, publisher, printer, manufacturer or owner.
- (5) The court may permit a person who claims to be the author, publisher, printer, manufacturer or owner of the film, publication, computer game or sexual article seized to appear in the proceeding, whether a notice has been given to the person or not.
- (6) On the hearing of a summons:
- (a) if the court is satisfied that:
- (i) an offence against this Act has been committed in respect of the film, publication, computer game or sexual article; and
- (ii) it is desirable that the film, publication, computer game or sexual article be forfeited to the Territory,
- it shall so order the forfeiture; or

- (b) if the court is not so satisfied, it shall order that the film, publication, computer game or sexual article be delivered to the person apparently entitled to possession immediately before its seizure.
- (7) Subject to subsection (8), a film, publication, computer game or sexual article forfeited under this section may be destroyed or otherwise dealt with as directed by the Minister.
- (8) The Minister shall not direct the destruction of a film, publication, computer game or sexual article before the expiration of the time allowed for instituting an appeal against the order or, if an appeal is lodged within that time, before the determination of the appeal.

## **Part XV            Miscellaneous**

### **62            Authority to prosecute**

Proceedings for an offence against this Act shall not be instituted except with the written consent of the Attorney-General or the Director of Public Prosecutions.

### **63            Liability for offence by body corporate**

- (1) Where a body corporate commits an offence against this Act:
  - (a) the person who, at the time the offence was committed, was the manager or other governing officer by whatever name called, or a member of the governing body by whatever name called, of the body corporate; and
  - (b) a person who, at the time the offence was committed, managed or acted or took part in the management, administration or governing of the business in the Territory of the body corporate,

shall each be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

- (2) This section applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.
- (3) It shall be a defence to a prosecution for an offence against this Act brought against a person specified in subsection (1) if the person charged with the offence proves that the offence was committed without his consent or connivance and that he exercised due diligence to prevent the commission of the offence.

**64 Evidence**

In proceedings for an offence against this Act, a certificate signed or purported to be signed by the National Director or the Deputy Director and stating that:

- (a) a film, publication or computer game is classified as specified in the certificate;
- (b) a classified film or a classified computer game specified in the certificate is modified in a manner specified in the certificate;
- (c) a film, publication or computer game is not classified, or is not classified at a classification specified in the certificate;
- (d) the film, publication or computer game to which the certificate relates is the film, publication or computer game that has been so classified or not so classified, as the case may be; or
- (e) an advertisement described in the certificate is approved or has been refused approval, or has not been approved,

is evidence of, and in the absence of evidence to the contrary is proof of, the facts stated in it.

**64A Commencement of prosecution for offence**

A prosecution for an offence against this Act may be commenced within 2 years after the date on which the offence is alleged to have been committed.

**64B Publication to prescribed person or body**

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

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

**65 Service of notices**

A notice that is required by this Act to be given to a person may be given by:

- (a) delivering it to him personally;

- (b) sending it to him by post addressed to him at his last known place of residence or business; or
- (c) leaving it at his last known place of residence or business with a person who apparently has attained the age of 16 years and is apparently resident or employed at that place.

## 66 Regulations

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Regulations may prescribe:
  - (a) penalties for offences against the Regulations, being penalties not exceeding \$1,000 in the case of a body corporate and not exceeding \$200 in the case of an individual;
  - (b) requirements in relation to the construction, conduct and management of restricted publications areas; and

## Part XVI Repeal and transitional

### 67 Repeal

The *Classification of Publications Act 1979* (being Act No. 135 of 1979) and the *Classification of Publications Amendment Act 1982* (being Act No. 28 of 1982) are repealed.

### 68 Transitional

- (1) The Acts repealed by section 67 shall continue to apply to and in relation to all publications which, immediately before the commencement of this Act, had a classification under those Acts as then in force, as if this Act had never commenced.
- (2) For the purposes of section 17, the words **this Act** as used in that section include:
  - (a) the Acts repealed by section 67; and
  - (b) those Acts in their continued application by virtue of subsection (1).

**Schedule**

section 55(4)

**RESTRICTED PUBLICATIONS AREA**  
**PERSONS UNDER 18 YEARS OF AGE MAY NOT ENTER**  
**THE PUBLIC IS WARNED THAT SOME MATERIAL DISPLAYED**  
**IN THIS AREA MAY CAUSE OFFENCE**



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**ENDNOTES**
**1****KEY**

Key to abbreviations

**amd = amended**  
**app = appendix**  
**bl = by-law**  
**ch = Chapter**  
**cl = clause**  
**div = Division**  
**exp = expires/expired**  
**f = forms**  
**Gaz = Gazette**  
**hdg = heading**  
**ins = inserted**  
**lt = long title**  
**nc = not commenced**

**od = order**  
**om = omitted**  
**pt = Part**  
**r = regulation/rule**  
**rem = remainder**  
**renum = renumbered**  
**rep = repealed**  
**s = section**  
**sch = Schedule**  
**sdiv = Subdivision**  
**SL = Subordinate Legislation**  
**sub = substituted**

**2****LIST OF LEGISLATION*****Classification of Publications Act 1985 (Act No. 7, 1985)***

Assent date 1 April 1985  
 Commenced ss 5, 6, 25 and 26: 1 May 1986; rem: 1 June 1986 (s 2, *Gaz* G17, 1 May 1985, p 7 and *Gaz* S26, 28 May 1986)

***Statute Law Revision Act 1989 (Act No. 60, 1989)***

Assent date 2 October 1989  
 Commenced 2 October 1989

***Director of Public Prosecutions (Consequential Amendments) Act 1990 (Act No. 29, 1990)***

Assent date 11 June 1990  
 Commenced 21 January 1991 (s 2, s 2 *Director of Public Prosecutions Act* 1990 (Act No. 35, 1990) and *Gaz* G2, 16 January 1991, p 9)

***Classification of Publications Amendment Act 1991 (Act No. 63, 1991)***

Assent date 14 November 1991  
 Commenced 12 August 1992 (*Gaz* G32, 12 August 1992, p 3)

**Amending Legislation*****Statute Law Revision Act 1992 (Act No. 46, 1992)***

Assent date 7 September 1992  
 Commenced 7 September 1992 (s 2(2))

***Classification of Publications and Films Amendment Act 1992 (Act No. 82, 1992)***

Assent date 18 December 1992  
 Commenced 1 January 1993 (*Gaz* S66, 24 December 1992, p 3)

***Classification of Publications and Films Amendment Act 1993 (Act No. 10, 1993)***

Assent date 15 April 1993  
 Commenced 1 May 1993 (*Gaz* S42, 30 April 1993)

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**Classification of Publications and Films Amendment Act 1994 (Act No. 18, 1994)**

Assent date 18 April 1994  
 Commenced 1 June 1994 (*Gaz S35*, 20 May 1994)

**Amending Legislation**

**Statute Law Revision Act 1994 (Act No. 50, 1994)**

Assent date 20 September 1994  
 Commenced 20 September 1994

**Statute Law Revision Act 1994 (Act No. 50, 1994)**

Assent date 20 September 1994  
 Commenced 20 September 1994

**Classification of Publications and Films Amendment Act 1995 (Act No. 53, 1995)**

Assent date 28 December 1995  
 Commenced 1 January 1996 (s 3, s 2 *Classification (Publications, Films and Computer Games) Act 1995* (Cth Act No. 7, 1995) and Cth Gaz GN50, 1 January 1996)

**Statute Law Revision Act 1998 (Act No. 11, 1998)**

Assent date 30 March 1998  
 Commenced 30 March 1998

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

s 38 *Classification of Publications Amendment Act 1995* (Act No. 63, 1991)  
 s 27 *Classification of Publications and Films Amendment Act 1995* (Act No. 53, 1995)

**4 LIST OF AMENDMENTS**

It amd No. 63, 1991, s 4  
 s 1 amd No. 63, 1991, s 5; No. 53, 1995, s 5  
 s 3 amd No. 63, 1991, s 6; No. 18, 1994, s 4  
     sub No. 53, 1995, s 6  
 s 3A ins No. 53, 1995, s 7  
 s 4 amd No. 63, 1991, s 7  
     sub No. 53, 1995, s 7  
 s 4A ins No. 63, 1991, s 8  
 s 5 amd No. 63, 1991, s 9  
     rep No. 53, 1995, s 8  
 s 6 rep No. 53, 1995, s 8  
 s 8 amd No. 53, 1995, s 9  
 s 16 sub No. 53, 1995, s 10  
     amd No. 11, 1998, s 10  
 s 17 amd No. 63, 1991, s 10  
 pt 3 hdg sub No. 53, 1995, s 11  
 pt 3  
 div 1 hdg rep No. 53, 1995, s 11  
 s 18 amd No. 63, 1991, s 11  
     rep No. 53, 1995, s 11  
 s 19 amd No. 63, 1991, s 12  
     rep No. 53, 1995, s 11  
 s 20 amd No. 63, 1991, s 13  
     rep No. 53, 1995, s 11

## ENDNOTES

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- s 21            amd No. 60, 1989, s 6  
                 sub No. 63, 1991, s 14  
                 rep No. 53, 1995, s 11
- s 22            amd No. 63, 1991, s 15  
                 rep No. 53, 1995, s 11
- ss 23 – 24      rep No. 53, 1995, s 11
- ss 24A – 24B   ins No. 18, 1994, s 5  
                 rep No. 53, 1995, s 11
- ss 24C – 24D   ins No. 18, 1994, s 5  
                 amd No. 50, 1994, s 2  
                 rep No. 53, 1995, s 11
- s 24E           ins No. 18, 1994, s 5  
                 rep No. 53, 1995, s 11
- pt 3
- div 2 hdg       rep No. 53, 1995, s 11
- s 25            amd No. 63, 1991, s 16; No. 18, 1994, s 6; No. 50, 1994, s 2; No. 53, 1995,  
                 s 12
- s 26            amd No. 63, 1991, s 17; No. 18, 1994, s 15  
                 rep No. 53, 1995, s 13
- s 27            amd No. 63, 1991, s 18  
                 rep No. 53, 1995, s 13
- s 28            sub No. 18, 1994, s 7  
                 rep No. 53, 1995, s 13
- s 29            amd No. 63, 1991, s 19; No. 10, 1993, ss 4 and 12  
                 rep No. 53, 1995, s 13
- s 30            amd No. 63, 1991, s 20; No. 18, 1994, s 15  
                 rep No. 53, 1995, s 13
- s 30A           ins No. 63, 1991, s 21  
                 rep No. 53, 1995, s 13
- s 31            sub No. 63, 1991, s 22  
                 rep No. 53, 1995, s 13
- s 32            sub No. 63, 1991, s 22  
                 amd No. 18, 1994, s 15  
                 rep No. 53, 1995, s 13
- s 33            sub No. 63, 1991, s 22  
                 rep No. 53, 1995, s 13
- s 34            rep No. 63, 1991, s 22
- pt 3
- div 2A hdg      ins No. 63, 1991, s 23  
                 rep No. 53, 1995, s 13
- s 34A           ins No. 63, 1991, s 23  
                 amd No. 18, 1994, s 15  
                 rep No. 53, 1995, s 13
- s 34B           ins No. 63, 1991, s 23  
                 rep No. 53, 1995, s 13
- ss 34C – 34D   ins No. 63, 1991, s 23  
                 amd No. 18, 1994, s 15  
                 rep No. 53, 1995, s 13
- pt 3
- div 3 hdg       rep No. 53, 1995, s 14
- pt 4 hdg       sub No. 53, 1995, s 14
- pt 4
- div 1 hdg       amd No. 18, 1994, s 10  
                 sub No. 53, 1995, s 14
- s 35            amd No. 63, 1991, s 24; No. 18, 1994, s 8; No. 50, 1994, s 2  
                 sub No. 53, 1995, s 14
- s 35A           ins No. 18, 1994, s 9  
                 rep No. 53, 1995, s 14

## ENDNOTES

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- s 36 amd No. 63, 1991, s 25; No. 10, 1993, ss 5 and 12  
sub No. 53, 1995, s 14
- s 37 amd No. 63, 1991, s 26  
sub No. 53, 1995, s 14
- s 38 amd No. 18, 1994, s 11  
sub No. 53, 1995, s 14
- pt 4
- div 1A hdg ins No. 63, 1991, s 27  
rep No. 53, 1995, s 14
- s 38A ins No. 63, 1991, s 27  
amd No. 10, 1993, s 6  
rep No. 53, 1995, s 14
- s 38B ins No. 63, 1991, s 27  
amd No. 82, 1992, s 4; No. 10, 1993, s 7  
rep No. 53, 1995, s 14
- s 38C ins No. 63, 1991, s 27  
amd No. 10, 1993, s 12  
rep No. 53, 1995, s 14
- s 38D ins No. 63, 1991, s 27  
amd No. 10, 1993, s 8  
rep No. 53, 1995, s 14
- s 38DA ins No. 10, 1993, s 9  
rep No. 53, 1995, s 14
- s 38E ins No. 63, 1991, s 27  
amd No. 10, 1993, s 12  
rep No. 53, 1995, s 14
- s 38F ins No. 63, 1991, s 27  
rep No. 53, 1995, s 14
- s 38FA ins No. 10, 1993, s 10  
rep No. 53, 1995, s 14
- s 38G ins No. 63, 1991, s 27  
amd No. 10, 1993, s 12  
rep No. 53, 1995, s 14
- ss 39 – 44 sub No. 53, 1995, s 14
- pt 4
- div 2 hdg sub No. 53, 1995, s 14
- ss 45 – 46 sub No. 53, 1995, s 14
- s 47 amd No. 18, 1994, s 15  
sub No. 53, 1995, s 14
- s 47A ins No. 63, 1991, s 28  
rep No. 53, 1995, s 14
- s 48 amd No. 18, 1994, s 15  
sub No. 53, 1995, s 14
- s 49 amd No. 63, 1991, s 29; No. 10, 1993, ss 11 and 12; No. 18, 1994, s 15  
sub No. 53, 1995, s 14
- s 49A ins No. 18, 1994, s 12  
rep No. 53, 1995, s 14
- s 50 sub No. 53, 1995, s 14
- s 50A ins No. 63, 1991, s 30  
amd No. 18, 1994, s 15  
sub No. 53, 1995, s 14
- ss 50B – 50ZL ins No. 53, 1995, s 14
- pt 4
- div 3 hdg ins No. 53, 1995, s 14
- pt 5 hdg ins No. 53, 1995, s 14
- s 60A ins No. 63, 1991, s 32  
amd No. 82, 1992, s 6  
rep No. 53, 1995, s 22

## ENDNOTES

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ss 60B – 60G	ins No. 63, 1991, s 32 rep No. 53, 1995, s 22
s 61	amd No. 63, 1991, s 33 rep No. 53, 1995, s 23
s 61A	ins No. 63, 1991, s 35 amd No. 18, 1994, s 15 rep No. 53, 1995, s 23
pt 6 hdg	ins No. 53, 1995, s 14
pt 7 hdg	ins No. 53, 1995, s 14
ss 75 – 78	ins No. 53, 1995, s 14
pt 8 hdg	ins No. 53, 1995, s 14
pt 9 hdg	ins No. 53, 1995, s 14
s 90	ins No. 53, 1995, s 14
ss 92 – 93	ins No. 53, 1995, s 14
pt 14 hdg	amd No. 53, 1995, s 19
s 112	amd No. 63, 1991, s 31 sub No. 53, 1995, s 20
pt 15 hdg	ins No. 63, 1991, s 32 amd No. 53, 1995, s 21
pt 15	
div 1 hdg	ins No. 63, 1991, s 32 rep No. 53, 1995, s 22
pt 15	
div 2 hdg	ins No. 63, 1991, s 34 sub No. 50, 1994, s 2 rep No. 53, 1995, s 22
s 113	amd No. 29, 1990, s 7
s 115	sub No. 63, 1991, s 36; No. 53, 1995, s 24
ss 117 – 118	ins No. 53, 1995, s 24
s 120	amd No. 63, 1991, s 37
pt 16 hdg	amd No. 53, 1995, s 25
sch	ins No. 53, 1995, s 26