

NORTHERN TERRITORY OF AUSTRALIA  
CLASSIFICATION OF PUBLICATIONS AND  
FILMS AMENDMENT ACT 1994

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**No. 18 of 1994**

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SCHEDULE





# NORTHERN TERRITORY OF AUSTRALIA

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No. 18 of 1994

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## AN ACT

to amend the *Classification of Publications and Films Act*

[Assented to 18 April 1994]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Classification of Publications and Films Amendment Act 1994*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Classification of Publications and Films Act* is in this Act referred to as the Principal Act.

4. DEFINITIONS

Section 3 of the Principal Act is amended -

- (a) by inserting after the definition of "Board" the following:

"'bulletin board' means a system of electronically stored information accessible by computer through the use of the telecommunications network;"

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(b) by inserting after the definition of "classified" the following:

"'computer game' means -

(a) a computer program, with or without associated data; or

(b) a computer generated image,

intended for the entertainment of the user, but does not include -

(c) a bulletin board; and

(d) a business, accounting, professional, scientific or educational computer program, unless it contains a computer game which would, if classified, be classified with an "MA(15+)", "R(18+)" or "X(18+)" classification, or be refused classification;

'computer generated image' means electronically recorded data capable, by means of an electronic device, of being produced on a television screen, liquid crystal display or similar medium as an image (including an image in the form of text);

'computer program' means a set of statements or instructions to be used directly or indirectly in a computer to bring about a certain result;

'contentious', in relation to a computer game, means a game play a reasonable adult person would consider unsuitable for viewing or playing by a person who has not attained the age of 15 years;"

(c) by inserting, after the definition of "Court" the following:

"'demonstrate' includes exhibit, display, screen, play or make available for playing;"

(d) by inserting after the definition of "determined" the following:

"'entertainment' includes activity undertaken for the purpose of diversion, recreation, competition or leisure;"

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(e) by omitting from the definition of "objectionable publication" all words after paragraph (b) and substituting the following:

"(c) promotes, incites or instructs in matters of crime or violence,

and includes a computer game declared under this Act to be an objectionable publication or a publication of a class of publications so declared;"

(f) by inserting in the definition of "publication", after "pictorial matter", the words "or a computer game"; and

(g) by inserting after the definition of "sell" the following:

"'telecommunications network' means a system, or series of systems, for carrying communications by means of guided or unguided electromagnetic energy or both."

5. NEW SECTIONS

The Principal Act is amended by inserting after section 24, in Division 1, the following:

"24A. APPLICATION

"(1) The Censor may, of his own motion or on application by a person, classify a computer game.

"(2) An application for the classification of a computer game shall be -

(a) in accordance with a form approved by the Censor;

(b) in writing signed by or on behalf of the applicant stating the following particulars:

(i) the title of the game;

(ii) the year of production;

(iii) the publisher;

(iv) the country of origin;

(v) a description of game play;

(c) accompanied by the determined fee;

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- (d) where a game play is likely to be contentious, accompanied by a video tape recording of the game play; and
- (e) if the Censor so requires, accompanied by a copy of any advertising matter relating to the computer game.

"(3) If the applicant is of the opinion that the game would, if classified, be classified with a 'G', 'G(8+)' or 'M(15+)' classification, the applicant may also submit with the application an assessment of the computer game, signed by or on behalf of the applicant and prepared by a person authorised by the Censor for the purpose, including -

- (a) a recommended classification of the game; and
- (b) consumer advice appropriate to the game.

"(4) Where the Censor disagrees with the recommended classification, the Censor shall give written notice to the applicant -

- (a) stating the particulars of the disagreement; and
- (b) requesting the applicant to make a written submission to the Censor within 14 days.

"(5) Where the Censor notifies an applicant under subsection (4), a decision shall not be made concerning the application until -

- (a) a written submission is received from the applicant within 14 days after the notice is given; or
- (b) 14 days have elapsed after the notice has been given.

"24B. PRODUCTION OF COMPUTER GAME FOR CLASSIFICATION

"(1) Where the Censor is of the opinion that -

- (a) a computer game is likely to contain contentious material; and
- (b) the computer game is being or will be published, distributed or sold in the Territory,

the Censor may, by notice in writing given to the publisher or distributor of the computer game, require the publisher or distributor to submit an application in accordance with section 24A for classification of the game.

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"(2) A person to whom notice under subsection (1) is given shall comply with the notice not later than 3 business days after the notice is given.

Penalty: \$2,000.

"(3) An offence against subsection (2) is a regulatory offence.

"(4) In this section, 'business day' means a day other than a Saturday, Sunday or public holiday.

"24C. APPROVAL OF COMPUTER GAME CLASSIFICATION BY CENSOR

"(1) Where the Censor decides that a computer game is not -

(a) an objectional publication; and

(b) unsuitable for viewing or playing by a minor,

the Censor shall approve the classification of the computer game -

(c) as a 'G' computer game, where he is of the opinion that the computer game is suitable for all ages;

(d) as a 'G(8+)' computer game, where he is of the opinion that the computer game cannot be recommended for viewing or playing by persons who have not attained the age of 8 years; or

(e) as an 'M(15+)' computer game, where he is of the opinion that the computer game cannot be recommended for viewing or playing by persons who have not attained the age of 15 years.

"(2) Subject to this section, the Censor shall approve the classification of a computer game as an 'MA (15+)' computer game where he decides that the computer game depicts, expresses or otherwise deals with sex, violence or coarse language in such a manner as to make the computer game unsuitable for viewing or playing by persons who have not attained the age of 15 years.

"(3) The Censor shall refuse to approve the classification of a computer game where he is satisfied that the computer game depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a manner that it offends against the standards of morality, decency and propriety generally accepted by reasonable adult persons to the extent that it should not be classified.

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"(4) The Censor shall refuse to approve the classification of a computer game that -

- (a) depicts a child (whether engaged in sexual activity or otherwise) who has not, or who has apparently not, attained the age of 16 years, in a manner that is likely to cause offence to a reasonable adult person; or
- (b) promotes, incites or instructs in matters of crime or violence.

"(5) Where a computer game includes a trailer advertising an unclassified computer game, the Censor shall refuse to approve the classification of the computer game.

"(6) Where a computer game includes a trailer advertising a classified computer game, the Censor shall not approve the classification of the computer game -

- (a) as a 'G' computer game if the advertised computer game is classified as a 'G(8+)', 'M(15+)', 'MA(15+)', 'R(18+)' or 'X(18+)' computer game;
- (b) as a 'G(8+)' computer game if the advertised computer game is classified as an 'M(15+)', 'MA(15+)', 'R(18+)' or 'X(18+)' computer game;
- (c) as an 'M(15+)' computer game if the advertised computer game is classified as an 'MA(15+)', 'R(18+)' or 'X(18+)' computer game; or
- (d) as an 'MA(15+)' computer game if the advertised computer game is classified as an 'R(18+)' or 'X(18+)' computer game.

"(7) Where the Censor approves the classification of a computer game, the Censor shall determine the consumer advice that shall apply to the computer game.

"24D. DECLARATION OF COMPUTER GAMES TO BE OBJECTIONABLE PUBLICATIONS, &c.

- "(1) The Minister may, by notice in the Gazette -
  - (a) declare a computer game, or a game of a class of computer games, to be an objectionable publication; or
  - (b) if satisfied that a computer game is a game the publishing or advertising of which should be restricted or subject to conditions, declare the restrictions and/or conditions to apply to the publishing or advertising of the game.



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"(2) A person who contravenes or fails to comply with a restriction or condition in a notice referred to in subsection (1)(b) is guilty of an offence.

Penalty: In the case of a body corporate - \$25,000.

In the case of an individual - \$5,000 or imprisonment for 6 months.

"24E. DECLASSIFICATION OF CONTENTIOUS COMPUTER GAMES

"A computer game that has been classified becomes unclassified if it contains contentious material (whether available through use of a code or otherwise) that has not been brought to the attention of the Censor either in the application or accompanying material or in a demonstration of the computer game."

6. ARRANGEMENT WITH COMMONWEALTH FOR CENSORING FILMS, &c.

Section 25 of the Principal Act is amended -

(a) by omitting subsection (1) and substituting the following:

"(1) The Minister may make such arrangements as he thinks fit with the Commonwealth for the exercise by an officer or authority of the Commonwealth, on behalf of the Territory, of the powers and functions of -

(a) the Censor or of an appeal censor relating to the classification of films for the purposes of this Act; or

(b) the Minister under this Part."; and

(b) by inserting after subsection (3) the following:

"(3A) Subject to this section, where an arrangement under subsection (1)(b) is entered into, the officer or authority of the Commonwealth shall be deemed to be the Minister for the purposes of this Act.

"(3B) A decision of an officer or authority of the Commonwealth made under this Part in accordance with an arrangement under subsection (1) may be reviewed under section 33 and that section and section 32, with the necessary changes, applies to and in relation to the decision as if the decision had been made in relation to the classification of a film.

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"(3C) Where a decision of the Minister under this Part and a decision of an officer or authority of the Commonwealth made under this Part in accordance with an agreement under subsection (1) are inconsistent, the decision of the Minister shall prevail and the decision of the officer or authority is, to the extent of the inconsistency, of no force or effect."

**7. REPEAL AND SUBSTITUTION**

Section 28 of the Principal Act is repealed and the following substituted:

**"28. SCREENING OF FILMS AND DEMONSTRATION OF COMPUTER GAMES**

"(1) For the purposes of this Division, the Censor may require -

- (a) a film that is the subject of an application for classification to be screened; or
- (b) a computer game that is the subject of an application for classification to be demonstrated.

"(2) Where the Censor requires a film to be screened or a computer game to be demonstrated, he may require the applicant to lodge a copy of the film or computer game with the Censor.

"(3) Where the Censor requires a computer game to be demonstrated, the computer game shall be demonstrated as and when required by the Censor.

"(4) The Censor may require the applicant for classification of a computer game to demonstrate the computer game.

"(5) A demonstration shall be carried out at the risk of the applicant for classification.

"(6) At a screening or demonstration referred to in subsection (1), the applicant for classification, not more than 4 representatives of that person and such other persons as are approved by the Censor are entitled to be present."

**8. CRITERIA FOR CLASSIFICATION**

Section 35 of the Principal Act is amended -

- (a) by omitting from subsection (2) "or viewing" and substitute ", viewing or playing";

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- (b) by omitting from subsection (3)(a) "read and view" and substitute "read, hear and see";
- (c) by omitting from subsection (3)(a) "wish; and" and substituting "wish;"
- (d) by omitting from subsection (3)(b) "published." and substituting "published; and";
- (e) by adding at the end of subsection (3) the following:
  - "(c) the need to take account of community concerns about depictions which condone or incite violence, particularly sexual violence or the portrayal of persons in a demeaning manner.";
- (f) by omitting from subsection (4) "or viewing" and substitute ", viewing or playing";
- (g) by omitting from subsection (4) "film" and substitute "film or computer game";
- (h) by omitting from subsection (5)(a) "published; and" and substituting "published;"
- (j) by omitting from subsection (5)(b) "published." and substituting "published; and";
- (k) by adding at the end of subsection (5) the following:
  - "(c) the classification guidelines;"
- (m) by adding at the end the following:

"(6) The Minister may, with the agreement of each participating Minister, determine guidelines by notice published in the *Gazette* for the purposes of subsection (5)(c).

"(7) If the classification guidelines are amended, the Minister shall cause a copy of the guidelines as amended to be published in the *Gazette*.

"(8) In this section -

'classification guidelines' means the guidelines in effect under subsection (6);

'participating Minister' means the Minister of a State or another Territory of the Commonwealth who is responsible for censorship matters where the State or Territory is a participant in a Commonwealth, State and Territory scheme for the

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classification of publications, films or computer games but does not include such a Minister in relation to an action to be taken under a provision of this Act if -

- (a) the action relates to a publication, film or computer game; and
- (b) the State or Territory does not participate in the scheme in relation to publications, films or computer games, as the case may be."

9. NEW SECTION

The Principal Act is amended by inserting after section 35 the following:

"35A. CONDITIONS APPLYING TO CLASSIFIED COMPUTER GAMES

"(1) The following conditions apply in relation to the classification of a computer game that is classified as an 'MA(15+)' computer game:

- (a) the game shall not be sold, let on hire or delivered to a person who has not attained the age of 15 years (other than by a parent or guardian of that person);
- (b) the game shall not be demonstrated or displayed in a public place unless the container, wrapping and casing in which the computer game is contained bear the determined markings.

"(2) A computer game classified as a 'G', 'G(8+)', 'M(15+)' or 'MA(15+)' computer game shall not be demonstrated in a public place unless the advertising matter relating to it bears the determined markings.

"(3) It is a condition in relation to the classification of a computer game that it shall not be sold, let on hire, demonstrated for sale or hire in a public place or demonstrated in a public place if, after classification, it has been edited to include a trailer advertising another computer game, unless -

- (a) in the case of a computer game classified as a 'G' computer game - the advertised computer game is classified as a 'G' computer game;
- (b) in the case of a computer game classified as a 'G(8+)' computer game - the advertised computer game is classified as a 'G' or 'G(8+)' computer game;

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- (c) in the case of a computer game classified as an 'M(15+)' computer game - the advertised computer game is classified as a 'G', 'G(8+)' or 'M(15+)' computer game; or
- (d) in the case of a computer game classified as an 'MA(15+)' computer game - the advertised computer game is classified as a 'G', 'G(8+)', 'M(15+)' or 'MA(15+)' computer game.

"(4) The Censor shall determine, by notice in the *Commonwealth Gazette*, markings for the purposes of this section in relation to different classifications of computer games.

"(5) In this section, 'determined markings', in relation to a computer game, means the markings determined under subsection (4) in relation to the classification given to the computer game."

10. HEADING TO DIVISION 1 OF PART IV

The heading to Division 1 of Part IV of the Principal Act is amended by inserting, after "*Unclassified*", the words "*or Objectionable*".

11. INTERPRETATION

Section 38 of the Principal Act is amended by inserting at the end of the definition of "prescribed publication" the words "or a computer game declared under this Act as a publication of that kind".

12. NEW SECTION

The Principal Act is amended by inserting after section 49 the following:

"49A. HIRING, &c., OF COMPUTER GAMES

"A person shall not let on hire a computer game to another person, or, for reward, permit another person to play a computer game, if that other person is not, because of a condition of the classification approved in respect of the game, permitted to hire the game.

Penalty: In the case of a body corporate -  
\$25,000.

In the case of an individual - \$5,000 or  
imprisonment for 6 months."

13. OFFENCES RELATING TO VIDEO TAPES

Section 56 of the Principal Act is amended by omitting subsection (4).

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14. NEW SECTION

The Principal Act is amended by inserting in Part IV, after section 56, the following:

"56AA. CERTIFICATE OF CENSOR AS EVIDENCE

"(1) For the purposes of a prosecution under this Act, a certificate issued by the Censor stating that a video or computer game with a particular name has not been classified shall, in the absence of evidence to the contrary, be evidence that the video or computer game has not been classified.

"(2) The Censor may issue a certificate under subsection (1) by examining the names of videos and computer games that have been subject to classification.

"(3) In issuing a certificate under subsection(1) the Censor shall not be required to view the video or play the game.

"(4) The advertising of a video or computer game shall be proof that the video or game exists so that, for the purpose of a prosecution, it shall not be necessary to supply the video or the computer game.

"(5) For the purposes of this section, a certificate shall be taken to be issued by the Censor if it is signed or purported to be signed by the Censor."

15. FURTHER AMENDMENTS

The Principal Act is further amended as specified in the Schedule.

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SCHEDULE

Section 15

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Provision	Amendment	
	omit	substitute
Section 26	"films" (wherever occurring)	"films and computer games"
Sections 30, 32, 34A, 34C, 34CD, 49, 56B and 56C	"film" (wherever occurring)	"film or computer game"

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Sections 48 and 49(1)	"\$2,500" "\$500" "3 months"	"\$25,000" "\$5,000" "6 months"
Section 49(2)	"\$5,000" "\$1,000"	"\$25,000" "\$5,000"
Section 49(3)	"\$1,000" "\$200"	"\$10,000" "\$2,000"
Section 50A	"film" (wherever occurring)	"film, computer game"
Section 55(1)	"that is"  "the film"	"or computer game that is"  "the film or computer game"
Section 55(2)	"film"	"film or computer game"
Sections 47 and 56	"video tape" (wherever occurring)	"computer game, video tape"
Section 56(3) (a) and (b)	"tape" (wherever occurring)	"game, tape"
Section 61A(2)	"film or"  "the film"	"film, computer game,"  "the film, computer game"

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