

NORTHERN TERRITORY OF AUSTRALIA
CLASSIFICATION OF PUBLICATIONS AND
FILMS AMENDMENT ACT 1993

No. 10 of 1993

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 10 of 1993

AN ACT

to amend the *Classification of Publications and Films Act*

[Assented to 15 April 1993]

BE 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 1993*.

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. **CLASSIFICATION OF FILMS BY CENSOR**

Section 29 of the Principal Act is amended -

(a) by adding at the end of subsection (1) the following:

"(f) an 'MA' film, where he is of the opinion that the film depicts, expresses or otherwise deals with violence, coarse language or sex in such a manner as to make the film unsuitable for viewing by a person who has not attained the age of 15 years."; and

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(b) by inserting in subsection (7), after paragraph (c), the following:

"(ca) as an 'MA' film if the advertised film is classified as an 'R' or 'X' film;".

5. CONDITIONS APPLYING TO CLASSIFIED PUBLICATIONS

Section 36 of the Principal Act is amended -

(a) by inserting, after subsection (2), the following:

"(2A) It is a condition in relation to a video tape, or a video disc, classified as an 'MA' film that it 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 the person)."; and

(b) by inserting in subsection (4), after paragraph (c), the following:

"(ca) in the case of a video tape, or a video disc, classified as an 'MA' film - the advertised film is classified as a 'G', 'PG', 'M' or 'MA' film;".

6. EXHIBITION OF FILM

Section 38A of the Principal Act is amended -

(a) by inserting after "conducts" in paragraph (a) "or is about to conduct"; and

(b) by inserting at the end of paragraph (b) "or is about to be exhibited".

7. CLASSIFICATION OF FILM TO BE SHOWN BEFORE SCREENING

Section 38B of the Principal Act is amended -

(a) by omitting from subsection (2) "Subject to subsection (3)" and substituting "Where there is no arrangement under section 25 in respect of a film"; and

(b) by omitting from subsection (3) "the purposes of this section" and substituting "the purposes of subsection (1)".

8. ATTENDANCE OF CHILD AT EXHIBITION OF CERTAIN FILMS - OFFENCE BY EXHIBITOR

Section 38D of the Principal Act is amended by adding at the end the following:

"(3) It is a defence to a charge under subsection (1) to prove that the defendant or the defendant's servant

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or agent took reasonable precautions to ensure that persons who have attained the age of 2 years but have not attained the age of 18 years were not admitted to the exhibition."

9. NEW SECTION

The Principal Act is amended by inserting after section 38D the following:

"38DA. ATTENDANCE OF PERSON UNDER 15 YEARS AT EXHIBITION OF 'MA' FILM - OFFENCE BY EXHIBITOR

"(1) Where -

- (a) a film is classified as an 'MA' film;
- (b) the film is exhibited or is about to be exhibited to a person in a public place;
- (c) a person who has attained the age of 2 years but has not attained the age of 15 years is in a place from which the exhibition of the film is, or will be, capable of being seen; and
- (d) the person referred to in paragraph (c) is not accompanied by his or her parent or guardian,

the person who has the superintendence or management of the place at which the film is or is about to be exhibited is guilty of an offence.

Penalty: \$1,000.

"(2) It is a defence to a prosecution for an offence against subsection (1) if it is proved that -

- (a) the person charged with the offence took reasonable precautions to ensure that persons who have not attained the age of 15 years were not admitted to the exhibition unaccompanied by their parent or guardian;
- (b) the person who had not attained the age of 15 years referred to in the charge appeared to be younger than 2 years of age or to have attained the age of 15 years at the time the offence is alleged to have been committed; or
- (c) the person who had not attained the age of 15 years referred to in the charge was accompanied, at the time the offence is alleged to have been committed, by a person who appeared to be his or her parent or guardian."

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10. NEW SECTION

The Principal Act is amended by inserting after section 38F the following:

"38FA. ATTENDANCE OF PERSON UNDER 15 YEARS AT EXHIBITION OF 'MA' FILM - OFFENCE BY OTHER PERSONS

"(1) A person who has attained the age of 18 years shall not -

(a) cause or permit a person who has not attained the age of 15 years -

(i) who is in his or her care, custody or control; and

(ii) who has attained the age of 2 years; or

(b) accompany and assist a person who has not attained the age of 15 years and has attained the age of 2 years,

to attend the exhibition in a public place of a film classified as an 'MA' film.

Penalty: \$1,000.

"(2) It is a defence to a charge under subsection (1) to prove that the person charged was the parent or guardian of the person who had not attained the age of 15 years named in the charge.

"(3) It is a defence to a charge under subsection (1) to prove that the defendant believed on reasonable grounds that the person who had not attained the age of 15 years named in the charge had attained the age of 15 years or had not attained the age of 2 years at the time of the alleged offence."

11. SALE, &c., OF CLASSIFIED PUBLICATIONS

Section 49 of the Principal Act is amended by adding at the end the following:

"(4) It is a defence to a prosecution for an offence against subsection (1) of the breach of a condition specified in section 36(2A) or, in respect of a film, section 36(3)(c), to prove that the person charged or the servant or agent of the person charged took all reasonable precautions to ensure that the condition was not breached."

12. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

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SCHEDULE

Section 12

| Provision | Amendment | |
|-------------------|------------------|---------------------------------|
| | omit | substitute |
| Section 29(1)(d) | "person; or" | "person;" |
| Section 29(1)(e) | "15 years." | "15 years; or" |
| Section 29(7)(a) | "'M'," | "'M', 'MA'," |
| Section 29(7)(b) | "'M'," | "'M', 'MA'," |
| Section 29(7)(c) | "'R'," | "'MA', 'R'," |
| Section 29(7)(e) | "'M'," | "'M', 'MA'," |
| Section 36(2) | "or an 'M' film" | "an 'M' film or an 'MA' film" |
| Section 36(4)(d) | "'M'" | "'M', 'MA'" |
| Section 38C(1)(b) | "as an 'R' film" | "as an 'MA' or 'R' film" |
| Section 38E | "an 'R' film" | "an 'MA' film, an 'R' film" |
| Section 38G(1) | "an 'R' film" | "an 'MA' film or an 'R' film" |
| Section 38G(7)(a) | "the 'R' film" | "the 'MA' film or the 'R' film" |
| Section 49(1)(b) | "an 'R' film" | "an 'MA' film, an 'R' film" |
| Section 49(2) | "an 'R' film" | "an 'MA' film, an 'R' film" |
| Section 49(3) | "or an 'M' film" | "an 'M' film or an 'MA' film" |
| Section 55(1) | "or an 'M' film" | ", an 'M' film or an 'MA' film" |