

Serial 301
Classification of
Publications
and Films
Amendment
(No. 2)
Mr Manzie

NORTHERN TERRITORY OF AUSTRALIA

CLASSIFICATION OF PUBLICATIONS AND
FILMS AMENDMENT BILL (NO. 2) 1993

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Classification of
Publications and Films Act*

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 (No. 2) 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. DEFINITIONS

Section 3 of the Principal Act is amended -

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

"'computer game' means an electronically recorded computer program capable, by means of an electronic device, of being produced on a television screen, liquid crystal display or similar device as an image, including an image in the form of text, but does not include -

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- (a) a system of electronically stored information accessible by computer through a system, or series of systems, for carrying communications by means of guided or unguided electromagnetic energy, or both; and
- (b) business, accounting, professional, scientific or educational software;"

e (p) 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 Division 1A of Part III to be an objectionable publication or a publication of a class of publications so declared;" and

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

5. NEW DIVISION

The Principal Act is amended by inserting in Part III, after Division 1, the following:

"Division 1A - Computer Games

"24A. BOARD MAY EXAMINE COMPUTER GAMES

"(1) The Board may, of its own motion or on the application of any person, after applying the guidelines of the Minister, report to the Minister on whether the Minister should declare a computer game or a computer game of a class of computer games to be an objectionable publication, or impose restrictions or conditions on the publishing or advertising of a computer game.

"(2) For the purposes of subsection (1), the Board may require the publisher or distributor of a computer game, at a reasonable time and place nominated by the Board, to demonstrate to the Board the full program of the computer game or provide sufficient documentation about the program to enable it to be fully demonstrated.

"(3) If a publisher or distributor of a computer game fails to comply with a requirement under subsection (1) or, in the opinion of the Board, demonstrates the program in a misleading way or provides information that is false or misleading in a material particular, the Board

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shall report to the Minister that the computer game be declared an objectionable publication notwithstanding that it has not applied to its consideration of the game the guidelines of the Minister.

"(4) The Minister shall provide the Board with such guidelines as he thinks fit that should be applied by the Board in making a report under subsection (1).

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

"(1) The Minister may, on his own motion or after receiving a report of the Board under section 24A, by notice in the *Gazette*, if he is satisfied that the computer game is -

- (a) of a kind referred to in paragraph (a), (b) or (c) of the definition of 'objectionable publication' or its program has not been adequately demonstrated or explained to the Board as required under section 24A(2), declare a computer game, or a game of a class of computer games, to be an objectionable publication; or
- (b) 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.

"(2) In declaring a computer game an objectionable publication under subsection (1), the Minister may, if he thinks it is of a kind referred to in paragraph (b) of the definition of 'objectionable publication', state that fact in the notice.

"(3) 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 - \$5,000.

In the case of an individual - \$1,000 or imprisonment for 6 months.

"(4) For the purposes of this Act, a court, in considering whether a computer game is an objectionable publication, is not bound by -

- (a) a report of the Board that a computer game is not an objectionable publication; or
- (b) a decision of the Minister not to declare a computer game an objectionable publication."

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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 or the Board under Division 1A."; 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 or Board, as the case may be, for the purposes of this Act.

"(3B) A decision of an officer or authority of the Commonwealth made under Division 1A 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.

"(3C) Where a decision of the Minister under Division 1A and a decision of an officer or authority of the Commonwealth made under that Division 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."

6A, 6B, 6C
→ 7. 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".

8. 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 Division 1A of Part III as a publication of that kind".

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9. ~~SUBSEQUENT CLASSIFICATION OF PUBLICATIONS~~

Section 47 of the ~~Principal Act~~ is amended by
omitting "video tape or video disc" and substituting
"video tape, video disc or computer game".

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