

1995—No. 137

**INDECENT ARTICLES AND CLASSIFIED PUBLICATIONS
ACT 1975—REGULATION**

(Indecent Articles and Classified Publications Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Indecent Articles and Classified Publications Act 1975, has been pleased to make the Regulation set forth hereunder.

J. P. Hannaford,
Attorney General.

Citation

1. This Regulation may be cited as the Indecent Articles and Classified Publications Regulation 1995.

Commencement

2. This Regulation commences on 27 March 1995.

Definition

3. In this Regulation:

“the Act” means the Indecent Articles and Classified Publications Act 1975.

Restricted publications area: sec. 5

4. (1) For the purposes of the definition of “restricted publications area” in section 5 (1) of the Act, the following requirements are prescribed:

- (a) the premises must be so constructed that no part of the interior of the premises is visible to any person outside the premises;

- (b) each entrance to the premises must be fitted with a gate or door capable of excluding persons from the interior of the premises, and the premises must be kept closed by means of any such gate or door at all times while the premises are closed to the public;
 - (c) at each entrance to the premises there must be displayed, so as to be able to be read from outside the premises, a notice that complies with the requirements of this clause;
 - (d) the proprietor of the premises, or some other adult person appointed by the proprietor for that purpose, must remain on or near the premises, and must be in charge of the premises, at all times while the premises are open to the public.
- (2) A notice referred to in subclause (1) (c) must contain the following words:
- RESTRICTED PUBLICATIONS AREA
PERSONS UNDER 18 YEARS OF AGE MAY NOT ENTER
MEMBERS OF THE PUBLIC ARE WARNED THAT SOME
MATERIAL DISPLAYED HEREIN MAY CAUSE OFFENCE
- (3) The notice is to be printed in clearly legible letters at least 15 mm in height.

Exemptions: sec. 10

5. For the purposes of section 10 of the Act:
- (a) businesses that sell or dispose of contraceptive devices or compounds (but no other articles, materials, compounds, preparations, devices or other things referred to in that section) are a prescribed class; and
 - (b) a prescribed condition with which such a business must comply is that no such contraceptive device or compound (and no such other article, material, compound, preparation, device or other thing referred to in that section) is to be displayed or exhibited to public view in any window or entrance to the premises of the business.

Applications for classification of publications: sec. 12

6. (1) An application for classification of a publication under section 12 (2) of the Act must be in writing and must be accompanied by 2 copies of the publication.
- (2) An application for classification of a publication under section 12 (3) of the Act must be in writing, must be accompanied by 6 copies of the publication (or such lesser number as the Board may approve, whether generally or in a particular case) and must be lodged at the office of the Board.

(3) Subclause (2) does not apply to an application made by the Minister or by a person authorised by the Minister to make such an application.

Marking of category 1 restricted publications: sec. 17

7. (1) For the purposes of section 17 (c) and (d) of the Act, the prescribed markings for a category 1 restricted publication are the following:

CATEGORY 1 RESTRICTED
NOT AVAILABLE TO PERSONS UNDER 18 YEARS

(2) The markings are to be printed or written on the front of the publication (and, if the Act requires the package containing the publication to bear the markings, on the outside of the package) in clearly legible letters at least 5 mm in height.

Marking of category 2 restricted publications: sec. 18

8. (1) For the purposes of section 18 (c) of the Act, the prescribed markings for a category 2 restricted publication are the following:

CATEGORY 2 RESTRICTED
WARNING—THIS MATERIAL MAY CAUSE OFFENCE

(2) The markings are to be printed or written on the front of the publication in clearly legible letters at least 5 mm in height.

Exemptions for public libraries: sec. 29

9. (1) For the purposes of section 29 (b) of the Act, the following libraries are prescribed:

- (a) the State Library of New South Wales;
- (b) local libraries within the meaning of the Library Act 1939.

(2) For the purposes of section 29 (b) of the Act, a prescribed condition with which such a library must comply is that the rules of the library:

- (a) must prohibit the display within the library of a category 1 or 2 restricted publication; and
- (b) must prohibit the perusal within the library of a category 1 or 2 restricted publication by a person who is under the age of 18 years; and
- (c) must prohibit the lending of a category 1 or 2 restricted publication to a person who is under the age of 18 years.

Repeal

10. The Indecent Articles and Classified Publications Regulation 1975 is repealed.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any changes in substance, the provisions of the Indecent Articles and Classified Publications Regulation 1975 under the Indecent Articles and Classified Publications Act 1975. The new Regulation deals with the following matters:

- (a) the construction, conduct and management of restricted publications areas, that is, areas in which restricted publications can be displayed and sold (clause 4);
- (b) the exemption of certain businesses from the provisions of section 10 of the Act, which (generally speaking) prohibits a person from advertising the fact that the person carries on a business of selling things that are primarily concerned with, or are used in connection with, sexual behaviour (clause 5);
- (c) the procedures for applying for classification of publications under the Act (clause 6);
- (d) the manner in which certain publications are to be marked (clauses 7 and 8);
- (e) the exemption of certain libraries from the provisions of sections 6, 18A, 18B and 19, relating to the unlawful publication of certain publications (clause 9);
- (f) other matters of a minor, consequential or ancillary nature (clauses 1, 2, 3 and 10).

This Regulation is made under the Indecent Articles and Classified Publications Act 1975, including section 30 (the general regulation making power) and sections 5, 10, 12, 17, 18 and 29.

This Regulation comprises or relates to matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
