

**INDECENT ARTICLES AND CLASSIFIED
PUBLICATIONS (AMENDMENT) ACT, 1977**

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 53, 1977.

An Act to amend the Indecent Articles and Classified
Publications Act, 1975, with respect to child
pornography. [Assented to, 24th June, 1977.]

BE

Indecent Articles and Classified Publications (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Indecent Articles and Classified Publications (Amendment) Act, 1977".

Amendment of Act No. 32, 1975. **2.** The Indecent Articles and Classified Publications Act, 1975, is amended in the manner set forth in Schedule 1.

Saving. **3.** A direction given under section 13 (2) of the Indecent Articles and Classified Publications Act, 1975, before the commencement of this Act shall be deemed to have been given under section 13B of that Act, as amended by this Act.

Sec. 2.

SCHEDULE 1.

AMENDMENTS TO THE INDECENT ARTICLES AND CLASSIFIED PUBLICATIONS ACT, 1975.

(1) (a) Section 5 (1), definition of "child pornography publication"—

After the definition of "Board", insert :—

"child pornography publication" means—

- (a) a publication in respect of which a classification under section 13A as a child pornography publication is in force; or
- (b) a copy of such a publication;

SCHEDULE

Indecent Articles and Classified Publications (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE INDECENT ARTICLES AND CLASSIFIED PUBLICATIONS ACT, 1975—*continued.*

- (b) Section 5 (1), definition of “classified publication”—

Omit “or a direct sale publication”, insert instead “, a direct sale publication or a child pornography publication”.

- (2) Section 12 (6)—

After “13”, insert “or 13A”.

- (3) Section 13 (2)—

Omit the subsection.

- (4) Sections 13A, 13B—

After section 13, insert :—

13A. (1) Where a publication is the subject of an application under section 12 to a classifying authority, and the authority is of the opinion that the publication contains indecent matter that depicts a child who—

Classification as child pornography publication.

- (a) is engaged in an activity of a sexual nature;
or

- (b) is in the presence of another person who is so engaged,

the authority shall, instead of classifying it under section 13, classify it as a child pornography publication.

SCHEDULE

Indecent Articles and Classified Publications (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE INDECENT ARTICLES AND CLASSIFIED PUBLICATIONS ACT, 1975—*continued.*

(2) In subsection (1), a reference to a child, in relation to a publication, is a reference to—

- (a) a person who, as depicted in the publication, is under the age of 16 years or appears to the classifying authority to be under the age of 16 years; or
- (b) where the classifying authority is satisfied that a person depicted in the publication is expressly or by implication represented (whether or not in a pictorial form) in the publication to be under the age of 16 years—that person.

(3) In this section—

“activity” includes the activity of posing;

“depict” means depict by photograph or in any other pictorial manner.

**Direction
extending
classifica-
tion.**

13B. If a classifying authority so directs when classifying a publication under section 13 or 13A, the classification decided upon extends to any subsequent edition, series, number, instalment or issue of the publication notwithstanding any reconstruction (whether by way of alteration in title, change of subject, characters, story or other features, or in any other manner) of the publication.

(5) (a) Section 14 (1)—

Omit “13 (1)”, insert instead “13 or 13A”.

SCHEDULE

Indecent Articles and Classified Publications (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE INDECENT ARTICLES AND CLASSIFIED
PUBLICATIONS ACT, 1975—*continued.*

- (b) Section 14 (1)—
Omit “13 (2)”, insert instead “13B”.
- (c) Section 14 (2)—
Omit “13 (1)”, insert instead “13 or 13A”.
- (d) Section 14 (2)—
Omit “13 (2)”, insert instead “13B”.
- (e) Section 14 (3) (a)—
After “13”, insert “or 13A”.

(6) Section 18A—

After section 18, insert :—

18A. A person contravenes this section if—

- (a) he publishes a child pornography publication; or
- (b) he has a child pornography publication in his possession apparently for the purpose of publishing it.

Offences in
relation to
child
pornography
publications.

Penalty : In the case of a corporation—\$2,000 for a first offence and \$4,000 for a second or subsequent offence. In any other case—\$1,000 or imprisonment for six months for a first offence and \$2,000 or imprisonment for twelve months for a second or subsequent offence.

SCHEDULE

Indecent Articles and Classified Publications (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE INDECENT ARTICLES AND CLASSIFIED
PUBLICATIONS ACT, 1975—*continued.*

(7) (a) Section 19 (1) (a)—

Omit “or a direct sale publication”, insert instead
“, a direct sale publication or a child
pornography publication”.

(b) Section 19 (1) (b)—

Omit “or direct sale”, insert instead “, direct sale
or child pornography”.

(c) Section 19 (2)—

Omit “or a direct sale publication”, insert instead
“, a direct sale publication or a child pornography
publication”.

(8) (a) Section 20—

After “18”, insert “, 18A”.

(b) Section 20 (b1)—

After section 20 (b), insert :—

(b1) where the contravention involved a child
pornography publication—all child
pornography publications that were; or

(9) Section 25 (b)—

Omit “a classified publication”, insert instead “an
unrestricted publication, a restricted publication or a
direct sale publication”.

SCHEDULE

Indecent Articles and Classified Publications (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE INDECENT ARTICLES AND CLASSIFIED
PUBLICATIONS ACT, 1975—*continued.*

(10) Section 26 (a)—

Omit “or a direct sale publication”, insert instead
“, a direct sale publication or a child pornography
publication”.
