

Passed by both Houses



New South Wales

Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2007

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2007*



New South Wales

Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2007

Act No , 2007

*An Act to amend the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* consequentially on the enactment of amendments to the corresponding Commonwealth Act, and to make further provision for the giving of exemptions from the State Act; and for other purposes.*

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2007*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedule 1 [6] commences:
 - (a) on the date of commencement of items 7 and 14 of Part 1 of Schedule 2 to the *Classification (Publications, Films and Computer Games) Amendment Act 2007* of the Commonwealth or the date of assent to this Act, whichever is the later, but
 - (b) if those items commence on different dates and either or both of those dates are after the date of assent to this Act—on the later of those dates.

3 Amendment of Classification (Publications, Films and Computer Games) Enforcement Act 1995 No 63

The *Classification (Publications, Films and Computer Games) Enforcement Act 1995* is amended as set out in Schedules 1 and 2.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments consequential on enactment of Classification (Publications, Films and Computer Games) Amendment Act 2007 of the Commonwealth

(Section 3)

[1] Section 4 Definitions

Omit the definition of *approved form* in section 4 (1). Insert instead:

approved form means a form approved under section 8A of the
Commonwealth Act.

[2] Section 4 (1)

Insert in alphabetical order:

Convenor means the Convenor of the Review Board appointed
under section 74 of the Commonwealth Act.

[3] Section 5A

Insert after section 5:

5A Films consisting only of classified films

Despite any other provision of this Act, a film:

- (a) that is contained on one device, and
- (b) that consists only of 2 or more classified films,

is to be treated, for the purposes of this Act, as if each of the
classified films were on a separate device.

**[4] Section 7 Classified films not to be sold or exhibited under different title
or in altered form**

Insert at the end of the section:

- (2) Subsection (1) is not contravened by the sale or exhibition of a
classified film:

- (a) under a title different from that under which it is classified
if it is contained on one device that consists only of 2 or
more classified films, or

- (b) with modifications referred to in section 21 (2) of the
Commonwealth Act,

or both.

Classification (Publications, Films and Computer Games) Enforcement
Amendment Bill 2007

Schedule 1 Amendments consequential on enactment of Classification (Publications,
Films and Computer Games) Amendment Act 2007 of the Commonwealth

**[5] Section 42 Advertisements to contain determined markings and
consumer advice**

Omit “by the Director” from section 42 (1) (b) (i).

[6] Section 48B Obtaining copies for review

Omit “Director” from section 48B (1). Insert instead “Convenor”.

[7] Section 58 Evidence

Omit “Director or Deputy Director” from section 58 (1).

Insert instead “Director, Deputy Director or Convenor”.

Schedule 2 Other amendments

(Section 3)

[1] Section 4 Definitions

Omit “(see note at the end of this section)” wherever occurring in section 4 (1).

[2] Section 4, note

Omit the note.

[3] Section 48 Calling in advertisements

Omit “classified” from section 48 (1) (b).

[4] Section 51

Omit the section. Insert instead:

51 Exemptions

(1) Power to exempt

The Director may:

- (a) on application by any person, make a written direction that this Act does not, to the extent and subject to any condition specified in the direction, apply to or in respect of any film, publication, computer game or advertisement, or
- (b) on application made in accordance with subsection (9), make a written direction that this Act, or any specified provision of this Act, does not, to the extent and subject to any condition specified in the direction, apply to an organisation approved under subsection (2) in relation to the exhibition of a film at an event (being a film and event specified in the direction), or
- (c) on application made in accordance with subsection (10), make a written direction that this Act, or any specified provision of this Act, does not, to the extent and subject to any condition specified in the direction, apply to an organisation approved under subsection (5) in relation to all or any of its activities or functions that relate to films or computer games.

(2) Approval of organisations for the purposes of subsection (1) (b)

The Director, by notice published in the Commonwealth Gazette, may, on application, approve an organisation for the purposes of subsection (1) (b). An approval takes effect on the date of publication of the notice.

- (3) In considering whether to approve an organisation under subsection (2), the Director is to have regard to the following matters:
- (a) the purpose for which the organisation was formed,
 - (b) the extent to which the organisation carries on activities of a medical, scientific, educational, cultural or artistic nature,
 - (c) the reputation of the organisation in relation to the screening of films,
 - (d) the conditions as to admission of persons to the screening of films by the organisation.
- (4) The Director may revoke an approval given under subsection (2) if, because of a change in any matter referred to in subsection (3), the Director considers that it is no longer appropriate that the organisation be approved.
- (5) **Approval of organisations for the purposes of subsection (1) (c)**
The Director, by notice published in the Commonwealth Gazette, may, on application, approve an organisation for the purposes of subsection (1) (c) if the organisation carries on activities of an educational, cultural or artistic nature. An approval takes effect on the date of publication of the notice.
- (6) In considering whether to approve an organisation under subsection (5), the Director is to have regard to the following matters:
- (a) the purpose for which the organisation was formed,
 - (b) the extent to which the organisation carries on activities of an educational, cultural or artistic nature,
 - (c) the reputation of the organisation in relation to:
 - (i) the screening of films, or
 - (ii) the possession or demonstration of computer games, as the case may be,
 - (d) the conditions as to admission of persons to:
 - (i) the screening of films by the organisation, or
 - (ii) the demonstration of computer games by the organisation, as the case may be.

(7) The Director may revoke an approval given under subsection (5) if, because of a change in any matter referred to in subsection (6), the Director considers that it is no longer appropriate that the organisation be approved.

(8) **Notification of refusal or revocation of approval**

The Director is to notify an organisation in writing of the Director's decision:

(a) to refuse an application for approval, or

(b) to revoke an approval,

within 30 days after the date of the decision and must give reasons for the decision. Revocation of an approval takes effect on the date of the decision to revoke or on a later date specified in the notice.

(9) **Application for exemption**

An application by an approved organisation for an exemption under subsection (1) (b) must:

(a) be in writing, and

(b) specify the film that the organisation intends to exhibit and the event at which the film is to be exhibited, and

(c) be accompanied by a synopsis of the story or events depicted in the film, and the prescribed fee.

(10) An application by an approved organisation for an exemption under subsection (1) (c) must:

(a) be in writing, and

(b) specify the extent of the exemption sought, and

(c) be accompanied by the prescribed fee.

(11) **Notification of refusal of exemption**

The Director must notify an organisation in writing of a decision to refuse an application for an exemption within 30 days after the date of the decision and must give reasons for the decision.

(12) **Ministerial directions and guidelines**

In considering whether:

(a) to make a direction under subsection (1), or

(b) to give an approval under subsection (2) or (5), or

(c) to revoke such an approval,

the Director is to give effect to any directions or guidelines issued by the Minister in relation to the application of this Act.

[5] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2007*

[6] Schedule 1

Insert at the end of the Schedule:

**Part 5 Provisions consequent on Classification
(Publications, Films and Computer Games)
Enforcement Amendment Act 2007**

12 Exemptions

- (1) Any directions or approvals given by the Director under section 51 and in force immediately before the commencement of this clause are taken to have been given under section 51 as substituted by the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2007*.
- (2) Any applications for directions or approvals made under section 51 and pending immediately before the commencement of this clause are taken to have been made under section 51 as substituted by the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2007*.
- (3) Any directions or guidelines given by the Minister under section 51 and in force immediately before the commencement of this clause are taken to have been given under section 51 as substituted by the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2007*.