

Act 1994 No. 31

**FILM AND VIDEO TAPE CLASSIFICATION (AMENDMENT)
BILL 1994**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Film and Video Tape Classification Act 1984 to provide for the classification of computer games and to create certain offences concerned with the sale, display, distribution and demonstration of computer games. The Bill complements the Classification of Publications (Amendment) Ordinance 1994 of the Australian Capital Territory ("the A.C.T. amendments") which commenced on 11 April 1994, and is part of the classification scheme for computer games agreed on between the Commonwealth, Territory and State Ministers responsible for censorship. For the sake of uniformity, this Bill follows the terminology used in the A.C.T. amendments.

At present under the Film and Video Tape Classification Act 1984, arrangements are made with the Commonwealth for the functions of a censor of films to be exercised, on behalf of New South Wales, by a Commonwealth authority. This arrangement will be extended to computer games, so that the classifications for computer games as determined by the Commonwealth censor can be applied in New South Wales. The classifications ratings for computer games will be "G", "G (8+)", "M (15+)" and "MA (15+)". Computer games classified as "R (18+)" or "X (18+)" by the Commonwealth censor will automatically be refused classification in New South Wales.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be proclaimed.

Clause 3 gives effect to the Schedule of amendments to the Film and Video Tape Classification Act 1984.

Schedule 1 contains amendments to the Film and Video Tape Classification Act 1984 to give effect to the object described above. A number of consequential amendments are made because of the Act being extended to cover computer games, and these include changing the name of the Act to the Film and Computer Game Classification Act 1984.

Film and Video Tape Classification (Amendment) 1994 [Act 1994 No. 31]

The definition of “computer game” (see **Schedule 1 (4)**) is based on the A.C.T. amendments and means a computer program or computer generated image designed for the entertainment of the user. Bulletin boards and business, accounting, professional, scientific or educational programs are in general excluded.

Schedule 1 (8) amends section 7 to provide for applications for classification of computer games. Applications must include specific information about the computer game, and if it contains material likely to be contentious (i.e. material which a reasonable adult would consider unsuitable for viewing or playing by a child under 15), the application must contain a recording of that material. Applicants can submit assessments and recommendations for computer games expected to be classified as “G”, “G (8+)” or “M” (15+)” (i.e. “advisory classifications”).

Schedule 1 (9) inserts proposed section 7A to provide that the censor can require the producer or distributor of a computer game that contains contentious material to submit the game for classification. This section will affect existing computer games (i.e. games that are currently on the market). **Schedule 1 (10)** extends section 8 of the Act so that the censor can require a computer game that is the subject of an application for classification to be demonstrated.

Schedule 1 (11) inserts proposed section 9AA which sets out the classification hierarchy that the censor can apply to computer games. An “MA (15+)” classification is the highest classification, and applies if the censor is of the opinion that the game depicts, expresses or otherwise deals with sex, violence or coarse language in such a manner as to make the game unsuitable for viewing or playing by children under 15. The censor is obliged to refuse to classify a computer game which deals with matters in such a way that would cause offence to a reasonable adult (this criterion is similar to that applying to films). When classifying a computer game, the censor can also specify warnings that are to be displayed with the game and may make recommendations in respect of the consumer advice that is applicable to the game. **Schedule 1 (12)** inserts proposed section 9B to remove any need for the censor to formally refuse classification in New South Wales for a computer game that has been classified “R (18+)” or “X (18+)” in the A.C.T. Such a classification will automatically operate as a refusal of classification in New South Wales.

Schedule 1 (13) and **(14)** provides for the approval by the censor of advertisements relating to computer games and for the classification of computer games which include trailers advertising other games. **Schedule 1 (15)–(20)** amends existing sections dealing with giving notice of classification decisions, review of decisions, revocation of classifications and other formal matters so that these provisions apply in respect of computer games. **Schedule 1 (21)** inserts proposed section 17A which provides that a classified computer game is taken to be unclassified if it contains contentious material not brought to the attention of the censor.

Schedule 1 (23) inserts a new Part 4A to provide for the regulation of computer games and for the enforcement of the classification scheme in New South Wales. The new Part contains provisions similar to those regulating the exhibition, advertising and supply of films. Proposed section 34A prohibits the sale, display, distribution or demonstration of unclassified computer games. Proposed sections 34B and 34C create offences concerning advertisements. Proposed section 34D prohibits the sale of “MA (15+)” computer games to children under 15 without parental consent, and also provides that the demonstration of such computer games in a public place is prohibited unless it is restricted to adults and to children under 15 who are accompanied by their parents. Proposed sections 34E–34K create miscellaneous offences which mirror the existing offences and provisions relating to films.

Film and Video Tape Classification (Amendment) 1994 [Act 1994 No. 31]

Schedule 1 (24)–(28) amends miscellaneous provisions in the Act to cover computer games. These provisions include the offence of copying an unclassified computer game for the purposes of sale. **Schedule 1 (29)** provides that existing computer games will not be affected by the amendments (except for existing computer games which are “called in” by the censor under proposed section 7A).
