

# Indecent Articles and Classified Publications Act 1975 No 32

[1975-32]



New South Wales

## Status Information

### Currency of version

Repealed version for 31 December 1995 to 31 December 1995 (accessed 25 November 2024 at 14:27)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Crimes Amendment \(Child Pornography\) Act 1995 No 49](#), Sch 3 (not commenced)
- **Repeal**  
The Act was repealed by the [Classification \(Publications, Films and Computer Games\) Enforcement Act 1995 No 63](#) with effect from 1.1.1996.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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# Indecent Articles and Classified Publications Act 1975 No 32



New South Wales

An Act with respect to the maintenance of standards of decency in the circulation and display of publications and certain other articles; to repeal the *Obscene and Indecent Publications Act 1901*; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Indecent Articles and Classified Publications Act 1975*.

### 2 Commencement

- (1) Section 1 and this section commence on the date of assent to this Act.
- (2) Subject to subsection (1), this Act commences on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 3 Repeals

The Acts specified in the Schedule are, to the extent so specified, hereby repealed.

### 4 (Repealed)

### 5 Definitions

- (1) In this Act, except to the extent that the context or subject-matter otherwise indicates or requires:

***appointed day*** means the day appointed and notified under section 2 (2).

***article*** includes any thing:

- (a) that contains or embodies matter to be read or looked at, or both,
- (b) that is to be looked at,

(c) that is a record, or

(d) that may be used, either alone or as one of a set, for the production or manufacture therefrom of any thing referred to in paragraph (a), (b) or (c).

**Board** means the Publications Classification Board constituted under section 15.

**category 1 restricted publication** means:

(a) a publication in respect of which a classification under section 13 as a category 1 restricted publication is in force, or

(b) a copy of such a publication.

**category 2 restricted publication** means:

(a) a publication in respect of which a classification under section 13 as a category 2 restricted publication is in force, or

(b) a copy of such a publication.

**classification officer** means a person designated as a classification officer under section 11.

**classified publication** means an unrestricted publication, a category 1 restricted publication, a category 2 restricted publication or a prohibited publication.

**classifying authority** means a classification officer, the Board or the District Court.

**District Court** means the District Court of New South Wales.

**premises** includes any structure, building, vehicle or vessel, and any part thereof, and any place whether built on or not, and any part thereof.

**prohibited publication** means:

(a) a publication in respect of which a classification under section 13 as a prohibited publication is in force, or

(b) a copy of such a publication.

**public place** means any place open to the public, whether on payment or the provision of any other consideration or otherwise, and includes a shop, stall, vehicle or other place to which persons are invited or permitted to resort to obtain, view or inspect goods or to obtain a service.

**publication** means a book, newspaper, magazine, periodical or like printed matter and includes photographs, posters, greeting cards and other pictorial matter.

**publish** includes:

- (a) distribute, disseminate, circulate, deliver, send, display, exhibit, lend for gain, exchange, barter, sell, offer for sale, let on hire and offer to let on hire,
- (b) have in possession or custody, or under control, for the purpose of doing an act referred to in paragraph (a),
- (c) print, photograph or make in any other manner (whether of the same or of a different kind or nature) for the purpose of doing an act so referred to or to enable such an act to be done.

**record** means a gramophone record or a wire or tape, or a film, and any other thing of the same or of a different kind or nature, on which is recorded a sound or picture and from which, with the aid of suitable apparatus, the sound or picture may be produced, whether or not it is in a distorted or altered form.

**restricted publications area** means any premises constructed, conducted and managed in accordance with the prescribed requirements.

**sell** means sell by wholesale or retail, whether by cash, on terms or otherwise, and includes barter, exchange, supply for profit, let on hire, offer for sale or to let on hire, receive for sale or to let on hire, have in possession for sale or to let on hire, expose for sale or to let on hire, send, forward or deliver for sale or to let on hire and cause, suffer or allow to be sold or to be let on hire, offered or exposed for sale or to be let on hire.

**unrestricted publication** means:

- (a) a publication in respect of which a classification under section 13 as an unrestricted publication is in force, or
  - (b) a copy of such a publication.
- (2) For the purposes of this Act, but without prejudice to the generality of the definition of **publish** in subsection (1):
- (a) a person publishes a positive or negative photograph if he publishes a positive or negative picture made from it in a form visible by reflected or transmitted light or if he makes it available for use in making such a picture,
  - (b) a person publishes a record if he publishes the sound or picture recorded thereon, whether or not he publishes it in a distorted or altered form, and
  - (c) a person in the State, or who is resident in the State, publishes an article notwithstanding that the person to whom, or the place at which, he publishes the article is not within the State.
- (3) A film within the meaning of the *Film and Video Tape Classification Act 1984* that would, but for this subsection, be an indecent article is not an indecent article if it is

classified, or exempted from classification, under that Act.

- (4) For the purposes of this Act an article may be indecent notwithstanding that part of it is not indecent.
- (5) For the purposes of this Act, a person shall be deemed to have published an article in a street or public place if either he or the person to whom he publishes the article is, at the time of the publishing, in the street or public place.

## **Part 2 Indecent articles**

### **6 Offence relating to publication of an indecent article**

- (1) Subject to section 25, a person who publishes an indecent article contravenes this section and is liable, on conviction on indictment:
  - (a) where the accused is a corporation—to a penalty not exceeding 100 penalty units, or
  - (b) where the accused is not a corporation—to a penalty not exceeding 40 penalty units or imprisonment for 2 years.
- (2) Where:
  - (a) a person is charged before a stipendiary magistrate or two justices with a contravention of this section,
  - (b) the evidence for the prosecution is, in the opinion of the magistrate or justices, sufficient to put the accused on his trial,
  - (c) it appears to the magistrate or justices that the case may properly be disposed of summarily, and
  - (d) the accused consents to the case being disposed of summarily and does not desire to have the case determined by a jury,the magistrate or justices may hear and determine the charge in a summary manner.
- (3) Section 330 of the *Criminal Procedure Act 1986* applies to and in respect of a case disposed of in accordance with subsection (2) in the same way as it applies to and in respect of a case disposed of summarily in accordance with Part 9A of that Act.
- (4) A person convicted summarily in accordance with subsections (2) and (3) is liable:
  - (a) where the accused is a corporation—to a penalty not exceeding 50 penalty units, or
  - (b) where the accused is not a corporation—to a penalty not exceeding 20 penalty units or imprisonment for 2 years.

## 7 Search warrant

- (1) In this section, **authorised justice** has the same meaning as in the [Search Warrants Act 1985](#).
- (2) A member of the police force may apply to an authorised justice for a search warrant if the member of the police force has reasonable grounds for believing:
  - (a) that an article, being:
    - (i) a prohibited publication, or
    - (ii) an article (other than a category 1 restricted publication or a category 2 restricted publication) that may reasonably be suspected of being an indecent article,  
  
is kept in or on any premises for the purpose of being published, or
  - (b) that such an article has been published in, on or from any premises.
- (3) An authorised justice to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any member of the police force:
  - (a) to enter the premises,
  - (b) to search the premises for, and to seize, any articles of the kind referred to in subsection (2) (a), and
  - (c) on the premises or elsewhere, to produce by means of any suitable apparatus (whether found in or on the premises or not) a sound or picture from any record found in or on the premises.
- (4) Part 3 of the [Search Warrants Act 1985](#) applies to a search warrant issued under this section.

## 8 Summons to show cause against forfeiture of article may issue

- (1) Where an article has been seized pursuant to a search warrant issued under section 7, it shall be returned to the premises in or on which it was seized unless, not later than one month after the seizure, an information is laid against a person for a contravention of section 6 with respect to the article (or an article of which it is a copy) or a member of the police force reports the seizure to a justice who shall thereupon issue his summons calling on the person who, at the time of the seizure of the article, was occupying or using the premises entered by virtue of the warrant to appear before a court of petty sessions to show cause why the article and any other article seized pursuant to the warrant should not be forfeited to Her Majesty.
- (2) Where a summons issues under subsection (1) with respect to any articles, the court



before which it is returned may order that there be forfeited to Her Majesty:

- (a) such of the articles as are not claimed by the person summoned, or by some other person, or
- (b) where the person summoned, or some other person, claims any of the articles—such of the articles claimed as are found by the court to be indecent.

## **9 Return of seized article**

A court of petty sessions shall order the return of an article seized pursuant to a search warrant issued under section 7:

- (a) if the court dismisses an information laid for a contravention of section 6 with respect to the article, or
- (b) if, on the return before it of a summons issued pursuant to section 8 (1) with respect to the article, it finds that the article is not indecent.

## **10 Offences relating to certain type of business**

- (1) This section applies to a business (other than a prescribed business, or a business of a prescribed class, in respect of which the prescribed conditions are complied with) an object of which is the sale or disposal of any article, material, compound, preparation, device or other thing (whether of the same or of a different kind or nature) that is primarily concerned with, or is used or intended to be used in connection with, sexual behaviour but is not printed matter.
- (2) A person other than a corporation contravenes this section if he carries on or manages a business to which this section applies and he advertises, or attempts to advertise, or counsels or procures a person to advertise, in any manner the nature of the object of his business referred to in subsection (1).
- (3) A corporation contravenes this section if:
  - (a) it carries on or manages a business to which this section applies, and
  - (b) the corporation, or a director, secretary or employee of the corporation, advertises, or attempts to advertise, or counsels or procures a person to advertise, in any manner the nature of the object of its business referred to in subsection (1).
- (4) For the purposes of subsections (2) and (3), it is not an advertisement of the nature of an object of a business to which this section applies to make the object known only to a person, or the servant or agent of a person, who carries on a business or undertaking, or practises a profession, that ordinarily involves selling or disposing of, or advising on or prescribing the use of, any article, material, compound, preparation, device or other thing referred to in subsection (1).

- (5) A person contravenes this section if, in or in connection with the carrying on of a business to which this section applies, he exhibits or displays in a manner visible from a public place, or visible to a person who has not consented to or requested the exhibition or display, any article, material, compound, preparation, device or other thing referred to in subsection (1).

Maximum penalty: 50 penalty units in the case of a corporation and 20 penalty units or imprisonment for 12 months in any other case.

## **Part 3 Classified publications**

### **11 Classification officers**

The Minister may, by order published in the Gazette:

(a) designate:

- (i) the holder for the time being of a specified office, being an office tenable only by a person appointed or employed under the *Public Service Act 1979*, or
- (ii) a person so appointed or employed, or

(b) with the consent of a Minister of State for the Commonwealth, designate:

- (i) the holder for the time being of a specified office, not being an office so tenable, or
- (ii) a person not appointed or employed under that Act,

as a classification officer for the purposes of this Act.

### **11A Classifying authority to have regard to guidelines**

- (1) In exercising its functions under this Act, a classifying authority must have regard to any guidelines relating to the classification of publications and issued to it from time to time by the Minister.
- (2) For the duration of a person's designation, under section 11 (b), as a classification officer for the purposes of this Act, the Minister is not to issue guidelines except those that are agreed to by the Office of Film and Literature Classification of the Commonwealth.

### **12 Application for classification**

- (1) The Minister or a person authorised by him may apply to a classification officer for the classification of any publication.
- (2) A person who proposes to publish a publication may apply to a classification officer for the classification of that publication.
- (3) Where a classification officer classifies a publication pursuant to an application under

subsection (1) or (2) and the applicant objects to the classification, the applicant may, not later than seven days after the classification takes effect, apply to the Board for classification of the publication.

- (4) Where the Board classifies a publication pursuant to an application made under subsection (3) otherwise than by the Minister or a person authorised by him and the applicant objects to the classification, the applicant may, not later than seven days after the classification takes effect apply to the District Court, in accordance with rules of court, for classification of the publication.
- (5) Where a classification officer classifies a publication pursuant to an application under subsection (2) and the Minister objects to the classification, the Minister or a person authorised by him may apply at any time to the Board for classification of the publication.
- (6) Where a publication has been classified under section 13, an application, or further application, may not be made under subsection (2) in respect of the publication.
- (7) Where a person requests the Minister to apply under subsection (1) for a further classification of a classified publication and, upon the application of the Minister, the publication is again classified, that application by the Minister shall, notwithstanding subsection (6), be deemed, for the purposes of subsections (3), (4) and (5), to have been duly made by that person under subsection (2).
- (8) The making of an application under this section does not affect any classification of a publication that:
  - (a) is in force when the application is made, or
  - (b) takes effect after the application is made and before the classification pursuant to the application takes effect.

### **13 Classification of publications**

- (1) A classifying authority may, of its own motion, and shall, on an application under section 12, consider the classification to be assigned to a publication.
- (2) Except as provided by subsection (3), a classifying authority may:
  - (a) classify a publication as an unrestricted publication, or
  - (b) having regard:
    - (i) to the manner in which, and the extent to which, the publication relates to or depicts matters of sex, drug addiction, horror, crime, cruelty or violence, and
    - (ii) to the provisions of sections 17, 18, 18A and 18B,classify a publication as a category 1 restricted publication or a category 2

restricted publication.

(3) Where the classifying authority is of the opinion that a publication:

- (a) contains indecent matter that depicts, whether by photograph or in any other pictorial manner, a person who is under (or, in the opinion of the classifying authority, is under) the age of 16 years and who:
  - (i) is engaged in an activity, including the activity of posing, of a sexual nature, or
  - (ii) is in the presence of another person who is so engaged,
- (b) describes, depicts, expresses, or otherwise deals with, sexual activity of any kind between a human being and an animal,
- (c) contains a detailed and gratuitous description or depiction of an act of significant cruelty,
- (d) contains an explicit and gratuitous description or depiction of an act of sexual violence,
- (e) promotes, incites or encourages the use of hard drugs, or
- (f) promotes, incites or encourages terrorism within the meaning of the [Australian Security Intelligence Organization Act 1979](#) of the Commonwealth,

the classifying authority shall classify the publication as a prohibited publication.

### **13A (Repealed)**

### **13B Direction extending classification**

If a classifying authority so directs when classifying a publication under section 13, 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.

### **14 Gazettal of classification of publication**

- (1) Where the Minister receives notice of a classification under section 13, or of a direction under section 13B, with respect to a publication, he shall cause the classification or direction to be notified in the Gazette.
- (2) Neither a classification of a publication under section 13 nor a direction given under section 13B has effect until it is notified under subsection (1).
- (3) A notification in the Gazette that purports to be a notification under subsection (1):
  - (a) is evidence that a publication specified therein has been classified under section

13 as is specified in the notification,

(b) is evidence that a direction specified therein with respect to a publication has been given with respect to the publication,

(c) is evidence that any classification or direction specified therein is in force, and

(d) revokes any earlier such notification to the extent of any inconsistency.

(4) Where, but for this subsection, two classifications of a publication would take effect on the same day:

(a) a classification by the Board shall be deemed to take effect later than a classification by a classification officer, and

(b) a classification by the District Court shall be deemed to take effect later than a classification by the Board.

## **15 Publications Classification Board**

(1) The Governor may appoint a Publications Classification Board consisting of not less than five, and not more than seven, persons who shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on the Board by or under this Act.

(2) Of the members of the Board:

(a) one shall be a recognised expert in literature, art, medicine or science, and

(b) one shall be a barrister or solicitor,

and, of the other members of the Board, one at least shall be a man and one at least shall be a woman.

(3) Of the members of the Board, one shall, by the instrument of his appointment as a member of the Board or by a separate instrument, be appointed by the Governor as the chairman of the Board and another shall, in like manner, be appointed as deputy chairman of the Board.

(4) (Repealed)

(5) Subject to this section, a member of the Board holds office for a period of five years but is eligible for reappointment.

(6) A member of the Board vacates his office if he:

(a) dies,

(b) becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any

assignment of his estate for their benefit,

- (c) within the meaning of the *Mental Health Act 1958*, becomes a temporary patient, a continued treatment patient, a protected person or an incapable person, or if he becomes a person under detention within the meaning of Part 7 of that Act,
  - (d) resigns his office by writing under his hand addressed to the Minister, or
  - (e) (Repealed)
  - (f) is removed from office by the Governor.
- (7) Where a vacancy occurs in the office of a member of the Board otherwise than by reason of the expiration of his term of office, the Governor may, subject to subsection (2), appoint a person to the vacant office for the residue of the term of office of his predecessor.
  - (8) A member of the Board is entitled to remuneration and expenses at rates from time to time fixed by the Governor.
  - (9) Meetings of the Board shall be convened by the chairman and shall be so convened at such times as the chairman thinks fit and whenever he is requested so to do by the Minister.
  - (10) A majority of the members of the Board constitutes a quorum for the purposes of a meeting of the Board.
  - (11) The powers, authorities, duties and functions conferred or imposed upon the Board may only be exercised or performed pursuant to a decision supported by a majority of votes at a duly convened meeting of the Board at which a quorum is present.
  - (12) If, at a meeting of the Board, the voting on any matter is equal, the chairman is entitled to a casting vote in addition to his deliberative vote.
  - (13) In the absence of the chairman, the deputy chairman may exercise and perform the powers, authorities, duties and functions conferred and imposed on the chairman by this Act.
  - (14) The provisions of the *Public Service Act 1979* do not apply to or in respect of the appointment by the Governor of a member of the Board and any such member is not, in his capacity as such a member, subject to those provisions.
  - (15) The office of a member of the Board is not, for the purposes of the *Constitution Act 1902*, an office of profit under the Crown.

## **16 Board to make certain reports to Minister**

- (1) The Board shall report to the Minister on any matter arising out of the administration

of this Act that is referred to it by the Minister.

- (2) Where the Board is obliged under this section to make a report on any matter, a member of the Board who was, or was part of, the minority when the decision to make the report was made may himself make a report to the Minister.

### **17 Conditions relating to category 1 restricted publications**

The following conditions apply in relation to a category 1 restricted publication:

- (a) the publication shall not be sold or delivered to a person who has not attained the age of 18 years (other than by a parent or guardian of the person),
- (b) the publication shall not be exhibited or displayed in a public place unless the publication is contained in a sealed package,
- (c) where the sealed package referred to in paragraph (b) is made of transparent material—the publication shall bear the prescribed markings,
- (d) where the sealed package referred to in paragraph (b) is made of opaque material—both the publication and the package shall bear the prescribed markings.

### **18 Conditions relating to category 2 restricted publications**

The following conditions apply in relation to a category 2 restricted publication:

- (a) the publication shall not be sold or delivered to a person who has not attained the age of 18 years (other than by the parent or guardian of the person),
- (b) the publication shall not be exhibited or displayed other than in a restricted publications area,
- (c) the publication shall not be sold or delivered to a person unless the publication bears the prescribed markings,
- (d) the publication shall not be sold or delivered to a person who has not made a direct request for the publication,
- (e) the publication shall not be sold or delivered to a person unless the publication is contained in a package made of plain, opaque material.

### **18A Offences: category 1 and 2 restricted publications**

- (1) A person shall not publish or cause or permit to be published a category 1 restricted publication otherwise than in accordance with the conditions applicable to that publication.

Maximum penalty: 50 penalty units in the case of a corporation and 10 penalty units or imprisonment for 12 months in any other case.

- (2) A person shall not publish or cause or permit to be published a category 2 restricted publication otherwise than in accordance with the conditions applicable to that publication.

Maximum penalty: 100 penalty units in the case of a corporation and 20 penalty units or imprisonment for 2 years in any other case.

- (3) It is a defence to a prosecution for an offence under subsection (1) or (2) where the offence is alleged to have been committed with respect to a person who had not attained the age of 18 years as at the date of the alleged offence if the defendant proves:
- (a) that the defendant took all such steps as were reasonable in the circumstances to avoid being guilty of the alleged offence, or
  - (b) that the defendant or the defendant's servant or agent had reasonable grounds for believing, and did in fact believe, that the person in respect of whom the alleged offence was committed had attained the age of 18 years as at the date of the alleged offence.

### **18B Offences: prohibited publications**

A person shall not:

- (a) publish a prohibited publication, or
- (b) have possession of a prohibited publication apparently for the purpose of publishing it.

Maximum penalty: 150 penalty units in the case of a corporation and 40 penalty units or imprisonment for 2 years in any other case.

### **19 Advertising relating to certain publications**

- (1) Except to the extent provided by this section, section 14 and the regulations, a person shall not publish any advertising material of such a nature that a person may thereby be informed, whether by implication or otherwise:
- (a) that the publication is a classified publication, other than an unrestricted publication, or
  - (b) that an identifiable place or person may be resorted to for the purpose of perusing or obtaining a classified publication, other than an unrestricted publication, whether or not the publication is identifiable.

Maximum penalty: 50 penalty units in the case of a corporation and 10 penalty units or imprisonment for 12 months in any other case.

- (2) It is not an offence under subsection (1) for a person to publish in a restricted



publications area any advertising material in respect of a category 1 restricted publication or a category 2 restricted publication.

- (3) Regulations made for the purposes of subsection (1) may be made to differ in their application according to whether a publication is a category 1 restricted publication, a category 2 restricted publication or a prohibited publication and according to such other matters as are specified in the regulations.

## **20 Forfeiture of certain publications**

Where a person has been convicted of an offence against this Act constituted by a contravention of section 18A, 18B or 19 or where in respect of any person such an offence has been found by a court to have been proved, there shall be forfeited to Her Majesty:

- (a) where the contravention involved a category 1 restricted publication—all category 1 restricted publications that were,
- (b) where the contravention involved a category 2 restricted publication—all category 2 restricted publications that were,
- (c) where the contravention involved a prohibited publication—all prohibited publications that were, or
- (d) where the contravention involved advertising material—all advertising material of the nature referred to in section 19 (1) that was,

at the time of the commission of the offence in the possession or apparently under the control of that person.

## **21 Member of the police force may require certain particulars**

- (1) Where a member of the police force has reasonable cause to suspect that a person in a street or public place who is in possession of a category 1 restricted publication or a category 2 restricted publication is under the age of eighteen years, he may require that person to state his correct age, name and address and, if the member of the police force has reasonable cause to suspect that the age, name or address stated is false, he may require that person to produce, within a reasonable time, evidence of the correctness of the age, name or address stated.
- (2) A person contravenes this section if he fails or refuses to comply with a requirement referred to in subsection (1).

Maximum penalty: 1 penalty unit.

## **Part 4 General**

### **22 Liability of directors etc where provision contravened by corporation**

Where a corporation contravenes a provision of this Act, a person who, at the time of the

contravention, was within the meaning of the Companies (New South Wales) Code a director of, or was a person concerned in the management of, the corporation shall, without affecting the liability of the corporation to be punished for the contravention, be deemed also to have contravened the provision and shall be liable to the penalty prescribed in the case of such a contravention by a person other than a corporation unless he satisfies the court that the provision was contravened by the corporation without his knowledge or that he used all due diligence to prevent the contravention by the corporation.

### **23 Proceedings to be before stipendiary magistrate unless indictable**

Except to the extent that this Act otherwise provides, proceedings for a contravention of a provision of this Act or the regulations, and proceedings on the return of a summons issued pursuant to section 8 (1), shall be heard and determined by a stipendiary magistrate sitting in petty sessions.

### **24 Certain evidence may be admitted**

In any proceedings in which indecency is in issue, the opinion of an expert as to whether or not an article has any merit in the field of literature, art, medicine or science and, if so, the nature and extent thereof, is admissible evidence.

### **25 Certain proceedings prohibited**

Proceedings may not be instituted against any person for publishing after the appointed day an obscene libel or an indecent article:

- (a) for the purposes of an application under section 12, or
- (b) where the libel or article is, or is part of, an unrestricted publication, a category 1 restricted publication or a category 2 restricted publication and that publication is not published in contravention of section 18A or 19.

### **26 Exoneration from liability under certain contracts**

Notwithstanding anything in any contract or agreement entered into before or after the appointed day, a distributor, bookseller, newsagent or other person is not liable for breach of contract by reason only of his rejecting an article that is delivered to him, or by reason only of his refusing to accept delivery of or to deal in any such article, where:

- (a) the article is a category 1 restricted publication, a category 2 restricted publication or a prohibited publication or that person reasonably and bona fide believes that his acceptance of delivery of, or his possession of, or his dealing in, the article may render him liable to be prosecuted for publishing an obscene or blasphemous libel or for any contravention of a provision of this Act, and
- (b) he gives to the person from whom he has received, or is to receive, delivery of the article notice in writing of his rejection thereof, or refusal to accept delivery thereof, or

to deal therein, and of the reason therefor, as soon as practicable after he becomes aware of the nature of the article.

## **27 Proceedings against members etc**

(1)-(6) (Repealed)

(7) Proceedings may not be instituted or maintained by or in favour of any person against a classification officer or any member of the Board or any other person acting under the direction of the Board or a classification officer in respect of any act done or omitted to be done bona fide in the execution of any power or authority conferred by this Act on the officer or the Board.

## **28 Savings and transitional provisions**

(1) Where any thing was seized or attached before the commencement of this Act pursuant to a power conferred by the Acts repealed by this Act, the provisions of the Acts so repealed continue to apply to and in respect of the thing seized or attached as if this Act had not been enacted.

(2) Where:

(a) before the appointed day the Minister referred for the consideration of the State Advisory Committee on Publications constituted under the Acts repealed by this Act a matter arising out of the administration of the Acts repealed by this Act, or

(b) before or after that day the Minister received or receives a report by that Committee on a matter that, before that day, was referred to it for consideration,

the reference or report, as the case may be, shall be deemed to be a reference or report pursuant to section 16.

(3) Where a notification in the Gazette under section 33 of the *Obscene and Indecent Publications Act 1901* was in force immediately before the appointed day, the publication to which it relates shall, until a classification of the publication pursuant to an application under section 12 (1) or (2) takes effect, be deemed to be a restricted publication.

(4) A notification in the Gazette that, immediately before the appointed day, was in force under section 35 of the *Obscene and Indecent Publications Act 1901* shall be deemed to be a notification, published on that day under section 14, classifying the publication to which it relates as an unrestricted publication pursuant to an application under section 12 (1).

(5) (Repealed)

## 29 Exemption for certain libraries

The provisions of sections 6, 18A, 18B and 19 do not apply to or in respect of:

- (a) anything done in the execution of the *Library of New South Wales Act 1969*, or
- (b) a prescribed library, or a library of a prescribed class, in respect of which the prescribed conditions are complied with.

## 30 Regulations

- (1) The Governor may make regulations for or with respect to all matters that by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of subsection (1), the Governor may make regulations for or with respect to:
  - (a) applications under section 12 (1), (2) and (5),
  - (b) the marking of category 1 restricted publications or category 2 restricted publications,
  - (c) the wrapping of category 1 restricted publications or category 2 restricted publications.
- (3) The regulations may impose a penalty not exceeding 10 penalty units for a contravention thereof.

## Schedule

(Section 3)

Citation	Short title	Extent of repeal
No 12, 1901	<i>Obscene and Indecent Publications Act 1901</i>	The whole Act
No 12, 1908	<i>Police Offences (Amendment) Act 1908</i>	Part 5
No 36, 1946	<i>Obscene and Indecent Publications (Amendment) Act 1946</i>	The whole Act
No 10, 1955	<i>Obscene and Indecent Publications (Amendment) Act 1955</i>	The whole Act
No 54, 1967	<i>Obscene and Indecent Publications (Amendment) Act 1967</i>	The whole Act

No 26, 1968

*Obscene and Indecent  
Publications (Amendment) Act  
1968*

The whole Act