



New South Wales

Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Bill 2004

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (**the Principal Act**) to implement uniform classification categories for films and computer games consequent on amendments to the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth, and to make provision for matters of a savings and transitional nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

Schedule 1 **Amendment of Classification (Publications, Films and Computer Games) Enforcement Act 1995**

The *Classification (Publications, Films and Computer Games) Amendment Act 2004* of the Commonwealth provides for the replacement of existing classifications for films and computer games with new classifications. The amendments in this Bill are consequential on the new classifications under the Commonwealth Act. Changes relate to the names of classifications only and do not affect the type of material that is permitted within each classification. The new classifications are as follows:

Column 1	Column 2	Column 3
Previous classification for films	Previous classification for computer games	New classification for films and computer games
G	G	G
PG	G (8+)	PG
M	M (15+)	M
MA	MA (15+)	MA 15+
R		R 18+ (Films only)
X		X 18+ (Films only)
RC	RC	RC

Schedule 1 [4]–[31] make amendments to various sections of the Principal Act by removing references to old classifications and replacing them with the appropriate new classifications. Accordingly, references to computer game classifications of G (8+), M (15+) and MA (15+) are replaced by PG, M and MA 15+ respectively. Similarly, references to film classifications of MA, R and X are replaced by MA 15+, R 18+ and X 18+ respectively.

Schedule 1 [33] inserts saving and transitional provisions consequent on the amendments made by the proposed Act, including provision for the application of existing classifications to offences committed before the commencement of the proposed Act. **Schedule 1 [32]** allows further savings and transitional provisions to be made by regulation.

Schedule 1 [34] omits a note from the Principal Act that sets out the National Classification Code. The note is now out of date. **Schedule 1 [1]–[3]** make consequential amendments.

Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Bill 2004

Explanatory note

Schedule 2 Amendment of other Acts

Schedule 2.1 and 2.2 make consequential amendments to certain legislation in connection with the classifications amended under the proposed Act.



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New South Wales

Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Bill 2004

No. , 2004

A Bill for

An Act to amend the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* to give effect to uniform film and computer game classifications; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Act 2004</i> .	3 4
2 Commencement	5
(1) This Act commences or is taken to have commenced on the commencement of Schedule 1 to the <i>Classification (Publications, Films and Computer Games) Amendment Act 2004</i> of the Commonwealth except as otherwise provided by this section.	6 7 8 9
(2) Schedule 1 [27] and [28] commence or are taken to have commenced on the commencement of:	10 11
(a) Schedule 1 to the <i>Classification (Publications, Films and Computer Games) Amendment Act 2004</i> of the Commonwealth, or	12 13 14
(b) Schedule 2 to the <i>Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001</i> , whichever is the later.	15 16 17
3 Amendment of Classification (Publications, Films and Computer Games) Enforcement Act 1995 No 63	18 19
The <i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i> is amended as set out in Schedule 1.	20 21
4 Amendment of other Acts	22
Each Act specified in Schedule 2 is amended as set out in that Schedule.	23

Schedule 1	Amendment of Classification (Publications, Films and Computer Games) Enforcement Act 1995	1 2 3
	(Section 3)	4
[1] Section 3 Object of Act		5
	Omit “(as set out in the Schedule to that Act)” from the second note to the section.	6 7
[2] Section 3, note		8
	Omit “The text of the Code is set out in the note appearing at the end of this Act.” from the second note to the section.	9 10
[3] Section 4 Definitions		11
	Omit the definition of <i>Code</i> from the note to the section. Insert instead:	12
	<i>Code</i> means the National Classification Code, set out in the Schedule to this Act as originally enacted, as amended in accordance with section 6.	13 14
[4] Section 4, note		15
	Omit “(15+)” from paragraph (b) of the definition of <i>contentious material</i> .	16
[5] Section 6 Sale or public exhibition of unclassified, RC or X 18+ films prohibited		17 18
	Omit “X” wherever occurring. Insert instead “X 18+”.	19
[6] Section 6		20
	Omit “MA or R”. Insert instead “MA 15+ or R 18+”.	21
[7] Section 9 Sale of certain films to minors prohibited		22
	Omit “X” wherever occurring in section 9 (1). Insert instead “X 18+”.	23
[8] Section 9 (2)		24
	Omit “R” wherever occurring. Insert instead “R 18+”.	25
[9] Section 9 (4)		26
	Omit “MA”. Insert instead “MA 15+”.	27

Classification (Publications, Films and Computer Games) Enforcement
Amendment (Uniform Classification) Bill 2004

Schedule 1 Amendment of Classification (Publications, Films and Computer Games)
Enforcement Act 1995

[10] Section 10 Parents not to permit minors to attend RC, X 18+ or R 18+ films	1 2
Omit “X or R” wherever occurring. Insert instead “X 18+ or R 18+”.	3
[11] Section 11 Minors over 15 not to buy or attend RC, X 18+ or R 18+ films	4
Omit “X or R” wherever occurring. Insert instead “X 18+ or R 18+”.	5
[12] Section 12 R 18+ films not to be publicly exhibited in presence of minors	6
Omit “R” from section 12 (1). Insert instead “R 18+”.	7
[13] Section 13 MA 15+ films not to be publicly exhibited in presence of minors under 15	8 9
Omit “MA” from section 13 (1). Insert instead “MA 15+”.	10
[14] Section 14 Private exhibition of RC, X 18+ or R 18+ films in presence of minors	11 12
Omit “X” wherever occurring in section 14 (1). Insert instead “X 18+”.	13
[15] Section 14 (2)	14
Omit “R” wherever occurring. Insert instead “R 18+”.	15
[16] Section 16 Keeping unclassified, RC or X 18+ films with other films	16
Omit “X” from section 16 (1). Insert instead “X 18+”.	17
[17] Section 17 Leaving RC or X 18+ films in certain places	18
Omit “X” wherever occurring. Insert instead “X 18+”.	19
[18] Section 18 Possession or copying of films for the purpose of sale or exhibition	20 21
Omit “X” wherever occurring. Insert instead “X 18+”.	22
[19] Section 27 Sale or public demonstration of unclassified or RC computer games prohibited	23 24
Omit “G (8+) or M (15+)”. Insert instead “PG or M”.	25

[20] Section 27	1
Omit “MA (15+)”. Insert instead “MA 15+”.	2
[21] Section 30 Sale or delivery of RC or MA 15+ computer games to minors prohibited	3
Omit “MA (15+)” wherever occurring in section 30 (2).	4
Insert instead “MA 15+”.	5
[22] Section 32 MA 15+ computer games not to be publicly demonstrated in presence of minors under 15	6
Omit “MA (15+)” from section 32 (1). Insert instead “MA 15+”.	7
[23] Section 34 Computer games to display determined markings and consumer advice	8
Omit “MA (15+)” from section 34 (1). Insert instead “MA 15+”.	9
[24] Section 39 Certain films, publications and computer games not to be advertised	10
Omit “X” from section 39 (1) (a). Insert instead “X 18+”.	11
[25] Section 40 Advertisements with feature films	12
Omit section 40 (3). Insert instead:	13
(3) The hierarchy of film classification is as follows:	14
(a) G is a lower classification than PG, M, MA 15+ or R 18+,	15
(b) PG is a lower classification than M, MA 15+ or R 18+,	16
(c) M is a lower classification than MA 15+ or R 18+,	17
(d) MA 15+ is a lower classification than R 18+.	18
[26] Section 41 Advertisements with computer games	19
Omit section 41 (2). Insert instead:	20
(2) The hierarchy of computer game classification is as follows:	21
(a) G is a lower classification than PG, M or MA 15+,	22
(b) PG is a lower classification than M or MA 15+,	23
(c) M is a lower classification than MA 15+.	24

Classification (Publications, Films and Computer Games) Enforcement
Amendment (Uniform Classification) Bill 2004

Schedule 1 Amendment of Classification (Publications, Films and Computer Games)
Enforcement Act 1995

[27]	Section 45A Definitions (as inserted by the Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001)	1 2
	Omit “R” wherever occurring from the definition of <i>matter unsuitable for minors</i> .	3 4
	Insert instead “R 18+”.	5
[28]	Section 45A, definition of “objectionable matter” (as inserted by the Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001)	6 7 8
	Omit “X” wherever occurring. Insert instead “X 18+”.	9
[29]	Section 53 Exemptions for public libraries	10
	Omit the definition of <i>MA material</i> from section 53 (1). Insert instead:	11
	<i>MA material</i> means a film, or computer game, classified MA 15+.	12 13
[30]	Section 53 (1)	14
	Omit “R” from paragraph (a) of the definition of <i>restricted material</i> .	15
	Insert instead “R 18+”.	16
[31]	Section 63 Certain proceedings precluded	17
	Omit “X” from section 63 (b). Insert instead “X 18+”.	18
[32]	Schedule 1 Savings and transitional provisions	19
	Insert at the end of clause 1 (1):	20
	<i>Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Act 2004</i>	21 22
[33]	Schedule 1, Part 4	23
	Insert after Part 3:	24
	Part 4 Provisions consequent on Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Act 2004	25 26 27 28
	Note. On the commencement of Schedule 1 to the <i>Classification (Publications, Films and Computer Games) Amendment Act 2004</i> of the Commonwealth, classifications for films and computer games will be altered to establish new classifications. The changes to this Act reflect the changes made under the Commonwealth amending Act.	29 30 31 32

Classification (Publications, Films and Computer Games) Enforcement
Amendment (Uniform Classification) Bill 2004

Amendment of Classification (Publications, Films and Computer Games) Schedule 1
Enforcement Act 1995

Schedule 1 to the *Classification (Publications, Films and Computer Games) Amendment Act 2004* of the Commonwealth provides for the conversion of pre-commencement classifications to the equivalent new classifications under the Commonwealth Act. Classifications listed below in Column 1 and Column 2 are being replaced by the classification specified opposite in Column 3.

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Column 1	Column 2	Column 3
Previous classification for films	Previous classification for computer games	New classification for films and computer games
G	G	G
PG	G (8+)	PG
M	M (15+)	M
MA	MA (15+)	MA 15+
R		R 18+ (Films only)
X		X 18+ (Films only)
RC	RC	RC

9 Definitions

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In this Part:

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Commonwealth amending Act means the *Classification (Publications, Films and Computer Games) Amendment Act 2004* of the Commonwealth.

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equivalent former classification means:

- (a) in relation to a film classified G, PG, M, MA 15+, R 18+, X 18+ or RC, a classification of G, PG, M, MA, R, X or RC respectively, or
- (b) in relation to a computer game classified G, PG, M, MA 15+ or RC, a classification of G, G (8+), M (15+), MA (15+) or RC respectively.

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State amending Act means the *Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Act 2004*.

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10 Amendments extend to films and computer games classified before commencement

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- (1) An amendment made by the State amending Act to this Act or any other Act extends to a film or computer game classified before the commencement of the amendment.

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Classification (Publications, Films and Computer Games) Enforcement
Amendment (Uniform Classification) Bill 2004

Schedule 1 Amendment of Classification (Publications, Films and Computer Games)
Enforcement Act 1995

- (2) For that purpose, a reference in this Act or any other Act to a classification of a film or computer game, in relation to conduct that occurs or is alleged to occur on or after the commencement of any amendment made by the State amending Act, is a reference to the classification that the film or computer game has or is taken to have under the Commonwealth Act on or after the commencement of Schedule 1 to the Commonwealth amending Act. 1
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- (3) Unless the regulations otherwise provide, if a film or computer game was classified prior to the commencement of Schedule 1 to the Commonwealth amending Act: 9
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- (a) a person does not commit an offence under section 15 (3) or 34 (4) by selling the film or computer game in a container, wrapping or casing that displays a marking indicating the equivalent former classification of the film or computer game, and 12
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- (b) a person does not commit an offence under section 43 (2) by publishing an advertisement for the film or computer game that indicates the equivalent former classification of the film or computer game. 17
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- 11 Offences committed before commencement of State amending Act to be dealt with under old law** 21
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- (1) Any proceedings for an offence under this Act or any other Act in relation to conduct that occurred or is alleged to have occurred before the commencement of Schedule 1 to the Commonwealth amending Act are to be dealt with as if the State amending Act had not been enacted, except as otherwise provided by this clause. 23
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- (2) For the purpose of any such proceedings, a reference in this Act or any other Act to a classification of a film or computer game is a reference to the classification that had effect under the Commonwealth Act before the commencement of Schedule 1 to the Commonwealth amending Act. 29
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- (3) If such proceedings relate to an offence under this Act with respect to a film or computer game that was unclassified at the commencement of Schedule 1 to the Commonwealth amending Act, the following provisions apply: 34
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- (a) for the purpose of section 59, proceedings for the offence may be commenced when the film or computer game has been classified under the Commonwealth Act (as amended by the Commonwealth amending Act), 38
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Classification (Publications, Films and Computer Games) Enforcement
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Amendment of Classification (Publications, Films and Computer Games) Schedule 1
Enforcement Act 1995

- (b) a film or computer game classified G, PG, M, MA 15+, R 18+, X 18+ or RC, after the commencement of Schedule 1 to the Commonwealth amending Act, is taken to have been classified with the equivalent former classification, 1
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- (c) evidence or proof that a film or computer game has been classified G, PG, M, MA 15+, R 18+, X 18+ or RC is taken to be evidence or proof of the equivalent former classification. 5
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[34] Note National Classification Code 9
Omit the note. 10

Classification (Publications, Films and Computer Games) Enforcement
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Schedule 2 Amendment of other Acts

Schedule 2	Amendment of other Acts	1
	(Section 4)	2
2.1	Children (Detention Centres) Act 1987 No 57	3
	Section 17A Detainees not to be supplied with or allowed alcohol, tobacco or adult films	4
	Omit “X or R” from section 17A (2). Insert instead “X 18+ or R 18+”.	5
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2.2	Crimes Act 1900 No 40	7
	Section 578C Publishing child pornography and indecent articles	8
	Omit “X” from paragraph (e) of the definition of <i>article</i> in section 578C (1).	9
	Insert instead “X 18+”.	10