

Classification (Publications, Films and Computer Games) Enforcement Amendment (X 18+ Films) Bill 2005

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:

- (a) to remove the current prohibition in relation to the sale of films that are classified X 18+ under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth, and to remove the current prohibition on the public exhibition of such films, and
- (b) to ensure that films classified X 18+ are only sold from restricted publications areas, and
- (c) to increase penalties for allowing minors to access adult material.

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 30 days after the date of assent or the commencement of Schedule 1 to the *Classification (Publications, Films and Computer Games) Amendment Act 2004* of the Commonwealth, whichever is the later.

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 amends the *Crimes Act 1900*.

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

Schedule 1 [1] removes the prohibition under section 6 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (the **Principal Act**) on selling or publicly exhibiting a film classified X 18+. **Schedule 1 [2] and [16]** make consequential amendments.

Schedule 1 [2], [5], [8]–[10], [12] and [17] amend provisions of the Principal Act to increase the penalties for offences relating to allowing minors to access adult material.

Schedule 1 [3] inserts proposed section 6A into the Principal Act. The proposed section creates certain offences in relation to the display, sale, delivery and publication of films classified X 18+.

Schedule 1 [6] amends section 9 of the Principal Act to create an offence of selling or delivering to a minor a film classified X 18+, or an unclassified film that would, if classified, be classified X 18+. **Schedule 1 [4] and [7]** make consequential amendments.

Schedule 1 [13] amends section 14 of the Principal Act to create an offence for privately exhibiting in the presence of a minor a film classified X 18+ or an unclassified film that would, if classified, be classified X 18+. **Schedule 1 [11]** makes a consequential amendment.

Section 16 of the Principal Act provides that it is an offence to keep a film classified RC or X 18+ on any premises where classified films are sold. **Schedule 1 [14]** amends section 16 to provide that it is a defence to a prosecution for the offence of keeping a film classified X 18+ on such premises if the film was kept in a restricted publications area.

Schedule 1 [15] amends section 17 of the Principal Act to provide that it is an offence for a person to

leave in a public place or, without the occupier's permission, on private premises, a film classified RC, X 18+, R 18+ or MA 15+ or an unclassified film that would, if classified, be classified in one of those categories.

Schedule 1 [18]–[21] make amendments to the Principal Act in relation to advertising films, publications and computer games classified X 18+.

Schedule 1 [22] amends section 63 of the Principal Act to provide that proceedings can not be brought against any person for publishing an obscene libel or indecent article if the libel or article is, or is part of, a film, publication or computer game that is classified X 18+.