



Classification (Publications, Films and Computer Games) Amendment Act (No. 1) 2000

No. 111, 2000



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***An Act to amend the *Classification (Publications,
Films and Computer Games) Act 1995****

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An Act to amend the *Classification (Publications, Films and Computer Games) Act 1995*

[Assented to 4 September 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Classification (Publications, Films
and Computer Games) Amendment Act (No. 1) 2000*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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

1 Section 5

Insert:

enforcement application means an application that is made:

- (a) by the Commonwealth, a State or a Territory, or by an authority or agency of the Commonwealth, a State or a Territory; and
- (b) for the purpose of investigating or prosecuting an offence against a law of the Commonwealth, a State or a Territory.

2 Section 13

After “classification of a publication”, insert “(other than an enforcement application—see section 22A)”.

3 Subsection 14(1) and paragraph 14(4)(a)

After “classification of a film”, insert “(other than an enforcement application—see section 22A)”.

4 Paragraph 15(2)(b)

Before “invite”, insert “if the application is not an enforcement application—”.

5 Subsection 15(3)

Repeal the subsection, substitute:

- (3) If the application is not an enforcement application, the Board must deal with the application as an application for classification of a computer game after receiving the additional material and fee required.
- (4) If the application is an enforcement application, the Board must deal with the application as an application for classification of a computer game after receiving the applicant’s request that the

Board do so. The applicant must pay any additional fee on or after making the request.

6 Subsection 17(1)

After “classification of a computer game”, insert “(other than an enforcement application—see section 22A)”.

7 At the end of section 22

Add:

- (2) Subsection (1) does not prevent a film or computer game from being classified if the application for the classification was an enforcement application.

8 At the end of Division 2 of Part 2

Add:

22A Applications for classification for enforcement purposes

- (1) An application for classification of a publication, film or computer game that is an enforcement application must be:
 - (a) in writing; and
 - (b) made in a form approved by the Director in writing; and
 - (c) signed by or on behalf of the applicant; and
 - (d) accompanied by a copy of the publication, film or computer game.
- (2) The applicant must pay the prescribed fee for the application. However, the fee need not accompany the application.

9 Subsection 27(2)

Repeal the subsection, substitute:

- (2) If the application is not an enforcement application, the Director must give the copy to the applicant after the applicant pays the prescribed fee.
 - (3) If the application is an enforcement application, the Director must give the copy to the applicant after the applicant makes the
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application. The applicant must pay the prescribed fee on or after making the application.

10 Section 87

Repeal the section, substitute:

87 Evidentiary certificates

- (1) A person may apply to the Director for a certificate about action taken, or not taken, under this Act.
- (2) If the application is not an enforcement application, the Director must give the certificate to the applicant after the applicant pays the prescribed fee.
- (3) If the application is an enforcement application, the Director must give the certificate to the applicant after the applicant makes the application. The applicant must pay the prescribed fee on or after making the application.

11 Section 94 (paragraph (c) of the definition of *censor*)

Omit “or” (last occurring).

17 At the end of section 13

Add:

Note: For an applicant that is the Commonwealth, or a Commonwealth authority or agency: see section 91A.

19 At the end of subsection 14(1)

Add:

Note: For an applicant that is the Commonwealth, or a Commonwealth authority or agency: see section 91A.

21 At the end of subsections 15(3) and (4)

Add:

Note: For an applicant that is the Commonwealth, or a Commonwealth authority or agency: see section 91A.

25 At the end of subsection 17(1)

Add:

Note: For an applicant that is the Commonwealth, or a Commonwealth authority or agency: see section 91A.

26 At the end of subsection 22A(2)

Add:

Note: For an applicant that is the Commonwealth or a Commonwealth authority: see section 91A.

28 At the end of subsections 27(2) and (3)

Add:

Note: For an applicant that is the Commonwealth, or a Commonwealth authority or agency: see section 91A.

30 At the end of subsections 87(2) and (3)

Add:

Note: For an applicant that is the Commonwealth, or a Commonwealth authority or agency: see section 91A.

31 After section 87

Insert:

87A Board to make decisions within a specified time

- (1) The Board must make a decision on:
 - (a) an application for the classification of a publication, film or computer game (other than an enforcement application); or
 - (b) an application for approval of an advertisement;within 20 business days, or such shorter period as is prescribed by the regulations for the application. The time from which the period runs is to be worked out in the way prescribed by the regulations.
- (2) If the Board does not make the decision within the period, the Director must state the reason for the Board not doing so in the annual report given to the Minister under section 67.

32 Subsection 91(1)

Repeal the subsection, substitute:

- (1) The Director may, on application in writing by a person, waive all or part of the payment of fees payable, or notionally payable, under this Act if:
- (a) in the Director's opinion it is in the public interest to do so for public health or educational reasons; or
 - (b) the body that would be liable, or notionally liable, for the fee is:
 - (i) the Commonwealth, a State or a Territory (or an authority of one of those bodies); or
 - (ii) a non-profit organisation; or
 - (c) the payment is for special interest material having a limited distribution that is:
 - (i) wholly or mainly a documentary record of an event; or
 - (ii) of a cultural or like nature;
- and, in the Director's opinion, it is in the public interest to do so.
- (1A) The Director may only waive the payment under subsection (1) in accordance with the written principles determined by the Director and agreed to by the Minister. The Minister may only agree to the principles if the Minister has consulted the participating Ministers about them.

33 After section 91

Insert:

91A Commonwealth not liable to pay a fee

- (1) The Commonwealth is not liable to pay a fee that is payable under this Act. However, it is the Parliament's intention that the Commonwealth should be notionally liable to pay such a fee.
- (2) The Minister for Finance and Administration may give such written directions as are necessary or convenient for carrying out or giving effect to subsection (1) and, in particular, may give

directions in relation to the transfer of money within an account, or between accounts, operated by the Commonwealth.

- (3) Directions under subsection (2) have effect, and must be complied with, despite any other Commonwealth law.
- (4) In subsections (1) and (2), **Commonwealth** includes:
 - (a) an Agency (within the meaning of the *Financial Management and Accountability Act 1997*); and
 - (b) a Commonwealth authority (within the meaning of the *Commonwealth Authorities and Companies Act 1997*);that cannot be made liable to taxation by a Commonwealth law.

Note: For persons that can be made liable to pay tax, but are exempt from the liability because of another Commonwealth law: see section 91B.

91B Cancellation of exemptions from fees

- (1) This section cancels the effect of a provision of another Act that would have the effect of exempting a person from liability to pay a fee payable under this Act.
- (2) The cancellation does not apply if the provision of the other Act:
 - (a) commences after this section commences; and
 - (b) refers specifically to a fee payable under this Act.

91C Debts due to the Commonwealth

A fee payable under this Act is recoverable as a debt due to the Commonwealth.

*[Minister's second reading speech made in—
House of Representatives on 25 November 1998
Senate on 15 February 1999]*

(184/98)