

EXPLANATORY STATEMENT

Guidelines for the Classification of Films 2012

Issued by the Authority of the Minister for Justice

The *Classification (Publications, Films and Computer Games) Act 1995* (the Classification Act) facilitates classification in Australia by providing for the classification of publications, films and computer games. The Classification Act is intended to form part of a Commonwealth, State and Territory cooperative scheme for classification.

Authority for making the instrument

Section 12 of the Classification Act provides that the Minister may, with the agreement of each participating Minister, determine guidelines to assist the Board in applying the criteria in the *National Classification Code*.

Issues giving rise to the need for the instrument

The *Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Act 2012* (the Amended Classification Act) will introduce an R 18+ (Restricted) category for computer games into the Classification Act. The R 18+ category is legally restricted to adults. The Amended Classification Act commences on 1 January 2013.

The classification guidelines for films and computer games are currently ‘combined’ in the *Guidelines for the Classification of Films and Computer Games*. Ministers responsible for classification matters agreed to create new, separate *Guidelines for the Classification of Computer Games*. As a consequence of Ministers’ decision, the current combined *Guidelines for the Classification of Films and Computer Games* must be repealed, and separate guidelines for film classification need to be established.

The Attorney-General’s Department has conducted extensive public consultation on the introduction of an R 18+ category for computer games over the past two years. All State and Territory Ministers responsible for classification matters have agreed to the separate *Guidelines for the Classification of Films 2012*.

This instrument has no financial implications.

Commencement arrangements

The *Guidelines for the Classification of Films 2012* will commence on 1 January 2013. This is the day on which the R 18+ classification category for computer games and the *Guidelines for the Classification of Computer Games 2012* commence. On the same date, the combined *Guidelines for the Classification of Films and Computer Games* will be repealed.

The *Guidelines for the Classification of Films 2012* are a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA).

In accordance with subsections 44(1) and 54(1) of the LIA, the *Guidelines for the Classification of Films 2012* are not subject to disallowance or sunseting, as the Classification Act facilitates the establishment or operation of an intergovernmental scheme

involving the Commonwealth and one or more of the States, and authorises the instrument to be made by the Minister.

Purpose of the instrument

The current *Guidelines for the Classification of Films and Computer Games* contain detailed descriptions of each of the classification categories. They list the criteria (or ‘classifiable elements’) used by the Classification Board and Classification Review Board when making classification decisions and the types of content suitable for each category. The current guidelines are combined, that is, they apply the same classification criteria to films and computer games.

When Ministers agreed to introduce the R 18+ classification for computer games, they also decided to create new, separate *Guidelines for the Classification of Computer Games*. As a consequence, the current combined *Guidelines for the Classification of Films and Computer Games* need to be repealed, and separate *Guidelines for the Classification of Films* need to be established.

This instrument establishes standalone *Guidelines for the Classification of Films*. The classification criteria in the *Guidelines for the Classification of Films 2012* is the same as the criteria for films set out in the existing *Guidelines for the Classification of Films and Computer Games*.

Details of the instrument

The *Guidelines for the Classification of Films 2012* explain the different film classification categories, and the scope and limits of material suitable for each classification category.

The *Guidelines for the Classification of Films 2012* simply reproduce the existing guidelines for films as a separate, standalone instrument.

These Guidelines do not refer to computer games, with the exception of three references: in a sentence about classification requirements under the sub heading of legal context; and in information quoted from the Classification Act under the sub heading of classification criteria. The only other change to the text of these Guidelines is that it quotes the *National Classification Code*, as amended to take effect on 1 January 2013.

Classification Criteria

The Act

Paragraphs (a), (b), (c) and (d) quote the same text contained in section 11 of the Classification Act and therefore references to computer games are retained.

The Code

The *National Classification Code Amendment Notice 2012 (No.1)* amends subparagraph 1(a) of the current *National Classification Code* to introduce the term ‘play’ to reflect the introduction of an R 18+ category for computer games. New subparagraph 1(a) will provide that ‘adults should be able to read, hear, see and play what they want’. Therefore, under the heading, ‘The Code’ in the standalone *Guidelines for the Classification of Films 2012*, the text of the amended *National Classification Code*, is cited.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Guidelines for the Classification of Films 2012

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Classification (Publications, Films and Computer Games) Act 1995* (the Classification Act) facilitates classification in Australia by providing for the classification of publications, films and computer games.

The current *Guidelines for the Classification of Films and Computer Games* contain detailed descriptions of each of the classification categories. They list the classification criteria and classifiable elements used by the Classification Board and Classification Review Board when making classification decisions and the types of content suitable for each category. The current guidelines are combined, that is, they apply the same classification criteria to films and computer games.

The *Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Act 2012* amends the Classification Act to introduce an R 18+ (Restricted) category for computer games. The R 18+ category is legally restricted to adults. The amended Classification Act commences on 1 January 2013.

When Ministers responsible for classification matters decided to introduce an R 18+ classification category for computer games, they also agreed to create new, standalone *Guidelines for the Classification of Computer Games*. As a consequence, the current combined *Guidelines for the Classification of Films and Computer Games* need to be repealed, and separate *Guidelines for the Classification of Films* need to be established.

This instrument establishes separate *Guidelines for the Classification of Films*. The *Guidelines for the Classification of Films 2012* replicate exactly the guidelines set out in the existing *Guidelines for the Classification of Films and Computer Games*. This instrument is only necessary in order to reproduce the existing guidelines for film classification as a separate instrument.

Human rights implications

This Legislative Instrument does not make any changes to the law and does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights.