

## **Explanatory Statement**

Issued by the Authority of the Minister for Communications

*Classifications (Publications, Films and Computer Games) Act 1995*

### ***Classification (Publications, Films and Computer Games) Legislation Amendment Instrument 2024***

#### **Authority**

This instrument is made under section 6G (conditional cultural exemption rules), paragraph 20A(2)(e) (modification of unclassified films and computer games) and subsection 21(3) (declassification of classified films or computer games that are modified) of the *Classification (Publications, Films and Computer Games) Act 1995* (Classification Act).

It amends the *Classification (Publications, Films and Computer Games) (Modification of Films) Instrument 2015*, the *Classification (Publications, Films and Computer Games) (Modification of Computer Games) Instrument 2015* and the *Classification (Publications, Films and Computer Games) (Conditional Cultural Exemption Rules) Instrument 2015*, to align these instruments with amendments to the Classification Act contained in the *Classification (Publications, Films and Computer Games) Amendment (Industry Self-Classification and other Measures) Act 2023* (Classification Amendment Act), which will commence on 15 March 2024.

This instrument is made in advance of commencement in reliance on section 4 of the *Acts Interpretation Act 1901*, noting that the Classification Amendment Act received Royal Assent on 14 September 2023.

#### **Purpose and operation**

The purpose of the instrument is to:

- reflect changes to the Classification Act to broaden existing conditional cultural exemptions for approved cultural institutions to enable publication, film or computer game content displayed as part of routine exhibitions to not require classification; and
- prescribe that modified film and computer game content can be classified by a person who has been trained and accredited by Government to classify content under section 22K of the Classification Act.

Section 6E(a) of the Classification Act has been amended to broaden the application of conditional cultural amendments for classifiable content to include routine exhibitions at approved cultural institutions (such as an art gallery, museum or other cultural institution of sound reputation or that meets criteria under section 6F of the Classification Act). The change is intended to lower the administrative burden for the conduct of routine exhibitions that are considered low-risk, as these institutions already have measures in place to ensure that young people are kept safe from content that is not appropriate for them.

This instrument amends section 4 of *Classification (Publications, Films, Computer Games) (Conditional Cultural Exemption Rules) Instrument 2015* to remove references to “an event organised” by an approved cultural institution from the definitions of the terms “relevant material” and “relevant showing”, to reflect the amended provisions in the Classification Act.

Section 22K of the Classification Act establishes a new accreditation scheme to enable content providers to use classifiers (either in-house or third party) who have been trained and accredited by Government to classify content. This will provide an additional method for industry to have content classified, other than applying to the Classification Board or using an approved classification tool. The change is intended to promote industry compliance with classification regulations and improve efficiency in classifying large volumes of content across platforms, especially online.

The *Classification (Publications, Films, Computer Games) (Modification of Films) Instrument 2015* (Modification Instrument) prescribes the kinds of modifications to a film that would not require a film to be reclassified. It also allows for re-classification of modified films, providing that modified films can be classified if an application has been made to the Board; or an approved classification tool is used to produce a decision for the film as modified. This instrument amends subsection 6(1) of the Modification Instrument to add that a modified film can also be classified by a person accredited under section 22K of the Classification Act.

An equivalent amendment is made under subsection 8(1) of the *Classification (Publications, Films, Computer Games) (Modification of Computer Games) Instrument 2015*, to provide that a modified computer game can also be classified by a person accredited under section 22K of the Classification Act.

Details of the instrument are set out in [Attachment A](#).

## **Consultation**

The Classification Board and industry were consulted on amendments to the Classification Act. Separate consultations were not undertaken for this instrument as the changes are administrative and reflect the amendments to the Classification Act.

## **Impact analysis**

The Office of Impact Analysis was consulted in the development of the Classification Amendment Act, which this instrument supports, and assessed the proposal as having no more than minor regulatory impacts (OBPR22-03305).

## **Commencement and sunseting arrangements**

This instrument will commence on the later of the start of the day after it is registered, and at the same time as the Classification Amendment Act on 15 March 2024.

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (Legislation Act). In accordance with subsections 44(1) and 54(1) of the Legislation Act, it is not subject to disallowance or sunseting because the Classification Act facilitates the operation of an intergovernmental scheme and authorises the instrument to be made by the Minister.

## **Statement of Compatibility with Human Rights**

As section 42 of the Legislation Act does not apply to this instrument, being exempted under subsection 44(1) of the Legislation Act, a statement of compatibility with human rights is not required under section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Details of the *Classification (Publications, Films and Computer Games) Legislation Amendment Instrument 2024***

Section 1 – Name

This section provides that the name of the instrument is the *Classification (Publications, Films and Computer Games) Legislation Amendment Instrument 2024*.

Section 2 – Commencement

This section provides for the instrument to commence on the later of:

- (a) the start of the day after this instrument is registered; and
- (b) the same time as the *Classification (Publications, Films and Computer Games) Amendment (Industry Self- Classification and Other Measures) Act 2023* commences.

Section 3 – Authority

This section provides that the instrument is made under section 6G (conditional cultural exemption rules), paragraph 20A(2)(e) (modification of unclassified films and computer games) and subsection 21(3) (declassification of classified films or computer games that are modified) of the *Classification (Publications, Films and Computer Games) Act 1995*.

Section 4 – Definitions

This section provides a note as follows:

- Note: A number of expressions used in this instrument are defined in section 5 of the Act, including the following:
- (a) classified;
  - (b) computer game;
  - (c) film.

And provides that in this determination:

*Act* means the *Classification (Publications, Films and Computer Games) Act 1995*.

Section 5 – Schedules

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

## **Schedule 1 – Extension of conditional cultural exemptions for approved cultural institutions**

Schedule 1 sets out amendments to the *Classification (Publications, Films and Computer Games) (Conditional Cultural Exemption Rules) Instrument 2015*.

Item 1 amends section 4, removing “or an event organised” from the definition of *relevant material*.

Item 2 amends section 4, removing “or an event organised” from the definition of *relevant showing*.

## **Schedule 2 – Classification of modified films by accredited persons**

Schedule 2 sets out amendments to the *Classification (Publications, Films and Computer Games) (Modifications of Films) Instrument 2015*.

Item 1 in Schedule 2 amends paragraph 6(1)(b) of the *Classification (Publications, Films and Computer Games) (Modifications of Films) Instrument 2015*, inserting “or” after “section 5”.

Item 2 amends subsection 6(1) inserting after paragraph 6(1)(b):

- (c) an accredited person has classified a modified film under section 22K of the Act.

## **Schedule 3 – Classification of modified computer games by accredited persons**

Schedule 3 sets out amendments to the *Classification (Publications, Films and Computer Games) (Modifications of Computer Games) Instrument 2015*.

Item 1 amends paragraph 8(1)(b), inserting “or” after “section 6”.

Item 2 amends subsection 8(1), inserting after paragraph 8(1)(b):

- c) an accredited person has classified a modified computer game under section 22K of the Act.