

I certify that this is a copy of the authorised version of this Act as at 20 April 2023, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 20 April 2023.

K Woodward
Acting Chief Parliamentary Counsel
Dated 28 April 2023



TASMANIA

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ENFORCEMENT ACT 1995

No. 105 of 1995

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
- 3A. Application of Act
4. When is a person taken to have exhibited a film in a public place?
- 4A. Films contained on devices consisting only of classified films

PART 2 – PUBLICATIONS

[Division 1 – Repealed

- 5 - 6. *Repealed]*

[Division 2 – Repealed

7 - 13. *Repealed]*

Division 3 – Category 1 and 2 restricted publications

- 14. Conditions applying to category 1 restricted publications
- 15. Conditions applying to category 2 restricted publications
- 16. Offences in relation to category 1 and 2 restricted publications
- 16A. Sale or delivery of publications contrary to conditions
- 16B. Consumer advice for Unrestricted publications

Division 4 – Other publications and offences

- 17. Offences in relation to unclassified objectionable publications
- 18. Offences in relation to prohibited publications
- 19. Offences in relation to misleading or deceptive markings

PART 3 – FILMS

Division 1 – Exhibition of films

- 20. Requirements for exhibiting film in public place
- 21. Classification notice to be displayed when exhibiting film in public place
- 22. RC or X 18+ film not to be exhibited in public place
- 23. RC, X 18+, R 18+ or MA 15+ film not to be exhibited if visible from public place
- 24. Unclassified RC, X 18+, R 18+ or MA 15+ film not to be exhibited if visible from public place
- 25. RC, X 18+ or R 18+ film not to be exhibited privately in presence of minor
- 26. Unclassified RC, X 18+ or R 18+ film not to be exhibited in presence of minor
- 27. R 18+ or MA 15+ film not to be exhibited on premises where films sold
- 28. R 18+ film not to be exhibited in public place in presence of minor
- 29. Parent not to allow minor to attend exhibition of R 18+ film
- 30. Minor not to attend exhibition of R 18+ film

31. MA 15+ film not to be exhibited in public place in presence of unaccompanied minor

Division 2 – Sale and delivery of films

32. Unclassified film not to be sold or delivered
33. Classified film not to be sold or delivered under different title or in altered form
34. Classification notice to be displayed on premises where film sold
35. Film sold or delivered is to bear determined markings and consumer advice
36. RC or X 18+ film not to be sold or delivered
37. R 18+ film not to be sold or delivered to minor
38. MA 15+ film not to be sold or delivered to minor under 15
39. Minor who is 15 or older not to buy R 18+ film

Division 3 – Review of classification of films for sale

40. Interpretation of Division
41. Application to review classification of film emphasising cruelty or violence
- 41A. Review Committee
42. Criteria for reviewing classification of film
43. Review Committee to make recommendation to Minister after review
44. Ministerial action on recommendation
45. Effect of Ministerial order
46. Provisions relating to orders
47. Provisions relating to Ministerial acceptance of recommendation
48. Offence to sell or deliver film that has been prohibited

PART 4 – COMPUTER GAMES

49. Requirements for selling, &c., computer game in public place
50. Classification notice to be displayed when selling or demonstrating computer game in public place
51. Computer game sold or delivered is to bear determined markings and consumer advice
52. RC computer game not to be sold or delivered

- 53. RC, R 18+ or MA 15+ computer game not to be demonstrated in public place
- 54. RC or R 18+ computer game not to be demonstrated privately in presence of minor
- 54A. R 18+ computer games not to be sold or delivered to minor under 18
- 55. MA 15+ computer game not to be sold or delivered to minor under 15

PART 5 – ADVERTISEMENTS

- 56. Unapproved advertisement not to be published, &c.
- 57. Certain advertisements for films, publications and computer games not to be published
- 58. Advertisement for classified film not to be screened during public exhibition of other film of lower classification
- 59. Classified film not to be sold or delivered with advertisement for film of higher classification
- 59A. Advertisement for unclassified film to be in accordance with Advertising Scheme
- 60. Classified computer game not to be sold, delivered or demonstrated with advertisement for computer game of higher classification
- 60A. Advertisement for unclassified computer game to be in accordance with Advertising Scheme
- 61. Misleading or deceptive advertisement not to be published
- 62. Classification symbols, &c., to be published with advertisement
- 63. Certain advertisements to contain determined markings and consumer advice

PART 6 – CALL IN PROVISIONS

- 64. Calling in submittable publication for classification
- 64A. Calling in films for classification
- 65. Calling in computer game for classification
- 66. Board may call in advertisement
- 66A. Calling in publication, film or computer game for reclassification

66B. Obtaining copies for review

[PART 7 – *Repealed*

67AA - 70. *Repealed*]

PART 8 – CHILD EXPLOITATION MATERIAL AND BESTIALITY PRODUCTS UNLAWFUL

71. Interpretation of Part

72. Offence to make or reproduce bestiality product

72A. Offence to make or reproduce child exploitation material

73. Offence to procure child to be involved in making child exploitation material

73A. Offence to distribute child exploitation material

74. Offence to possess bestiality product

74A. Possession of child exploitation material

74B. Defence to offences in respect of child exploitation material

PART 9 – MISCELLANEOUS

Division 1 – Enforcement and proceedings

75. Power of police officers and other persons to demand particulars

76. Power of entry and seizure

77. Forfeiture of child exploitation material, &c.

77A. Forfeiture of other seized publications, films and computer games

78. Evidence

79. Proceedings on prosecutions

80. Matters averred to in complaint

81. Defence to offences with respect to minors

[82. *Repealed*]

83. Higher penalty for offence committed by body corporate

Division 2 – Administrative, consequential and transitional

[84. *Repealed*]

85. Regulations

86.

- 87. Repeals
- 88. Savings and transitional provisions
- 88A. Transitional provisions (2001 amendments)
- 88B. Transitional provisions (2005 amendments)
- 88C. Transitional provisions (2008 amendments)
- 88D. Transitional provisions (2015 amendments)
- 88E. Transitional provisions (2023 amendments)
- 89. Administration of Act

[**SCHEDULE 1** – *Repealed*]

SCHEDULE 2 – REPEALS

SCHEDULE 3 – SAVINGS AND TRANSITIONAL PROVISIONS



CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ENFORCEMENT ACT 1995

No. 105 of 1995

An Act to provide for the classification of publications and the enforcement of those classifications and for the enforcement of a national scheme of classification of films and computer games and for related matters

[Royal Assent 8 December 1995]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 2

Part 1 – Preliminary

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention appears

—

acceptable proof of age, in relation to a person, means documentary evidence that might reasonably be accepted as applying to the person as showing that the person is an adult;

adult means a person who is 18 or older;

advertisement has the same meaning as in the Commonwealth Act;

Advertising Scheme means the scheme determined from time to time under section 31 of the Commonwealth Act;

approved advertisement means an advertisement approved under section 29 of the Commonwealth Act;

approved form means a form approved under section 8A of the Commonwealth Act;

bestiality means sexual activity of any kind between a human being and an animal;

Board means the Classification Board established by the Commonwealth Act;

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 1 – Preliminary

s. 3

business day means a day other than –

- (a) a Saturday or Sunday; or
- (b) a statutory holiday as defined in the *Statutory Holidays Act 2000*;

buy means buy or exchange or hire and includes offer to buy or exchange or hire, agree to buy, exchange or hire and cause or permit to be bought or exchanged or hired, whether by retail or wholesale;

classification certificate means a certificate issued under section 25 of the Commonwealth Act;

classified means classified under the Commonwealth Act, including reclassified under that Act;

Code means the National Classification Code, set out in the Schedule to the Commonwealth Act as originally enacted, as amended in accordance with section 6 of the Commonwealth Act;

Commonwealth Act means the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth;

Commonwealth Gazette means the Commonwealth of Australia Gazette;

computer game has the same meaning as in the Commonwealth Act;

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 3

Part 1 – Preliminary

consumer advice means consumer advice given under section 20 of the Commonwealth Act;

contentious material, in relation to a computer game, means material that would be likely to cause it to be classified M, MA 15+, R 18+ or RC;

Convenor means the Convenor of the Review Board appointed under section 74 of the Commonwealth Act;

demonstrate includes exhibit, display, screen, play or make available for playing;

Deputy Director means Deputy Director of the Board;

determined markings means markings determined under section 8 of the Commonwealth Act;

Director means Director of the Board;

exempt computer game has the same meaning as in the Commonwealth Act;

exempt film has the same meaning as in the Commonwealth Act;

exhibit –

- (a) in relation to a film, means project or screen; and

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 1 – Preliminary

s. 3

(b) in relation to a publication,
includes display;

film has the same meaning as in the
Commonwealth Act;

guardian means an adult who is exercising
parental control over a minor under 15;

international flight, in relation to an aircraft,
means a flight that passes through the
airspace over the territory of more than
one country and includes any part of the
flight that may occur within Australia;

international voyage, in relation to a vessel,
means a voyage, whether direct or
indirect, between a place in Australia and
a place outside Australia and includes
any part of the voyage that may occur
within Australia;

minor means a person under 18 who is not
married;

notice means notice in writing;

objectionable publication means a publication
that –

(a) describes, depicts, expresses or
otherwise deals with matters of
sex, drug misuse or addiction,
crime, cruelty, violence or
revolting or abhorrent phenomena

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 3

Part 1 – Preliminary

in a manner that is likely to cause
offence to a reasonable adult; or

(b)

(c) describes, depicts, expresses or
otherwise deals with an act of
bestiality; or

(d) promotes, incites or encourages
terrorism; or

(e) is classified RC or would, if
classified, be classified RC;

parent includes guardian;

place includes premises or vacant land;

premises includes vehicle, vessel and aircraft
except a vessel on an international
voyage or an aircraft on an international
flight;

privately means not in a public place;

public place means any place which the public
is entitled to use, or which is open to or
used by the public, whether on payment
of money or otherwise;

publication has the same meaning as in the
Commonwealth Act;

publish includes sell, exhibit, display,
distribute and demonstrate;

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 1 – Preliminary

s. 3

relevant consumer advice means advice determined under section 20 of the Commonwealth Act;

reproduce, in relation to a publication, means to reproduce that publication by means of printing, photographing or recording or by any other means;

responsible person means, in respect of a business carried on, in or on any premises, each of the following:

- (a) the person carrying on the business;
- (b) any person apparently having the management or charge of the business either generally or so far as it is carried on in or on those premises;

Review Board means the Classification Review Board established by the Commonwealth Act;

Review Committee means the Review Committee established by the Minister under section 41A;

sell means sell, whether by wholesale or retail, and includes the following:

- (a) offer or expose for sale;

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 3A

Part 1 – Preliminary

- (b) keep or have in possession for sale or to let on hire;
- (c) barter or exchange;
- (d) let on hire or offer to let on hire;
- (e) deal in or agree to sell;
- (f) send, forward or deliver for, or in consideration of receiving, any payment or other consideration;
- (g) receive for sale or on sale;

subject to a conditional cultural exemption has the same meaning as in the Commonwealth Act;

submittable publication has the same meaning as in the Commonwealth Act and includes a publication called in by the Minister or Director under section 64;

terrorism has the meaning assigned to that expression by the *Australian Security Intelligence Organization Act 1979* of the Commonwealth;

vehicle has the meaning assigned to that expression by the *Traffic Act 1925*.

3A. Application of Act

This Act does not apply to –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 1 – Preliminary

s. 4

- (a) exempt films or exempt computer games;
or
- (ab) a publication, film or computer game that
is subject to a conditional cultural
exemption; or
- (b) broadcasting services to which the
Broadcasting Services Act 1992 of the
Commonwealth applies.

4. When is a person taken to have exhibited a film in a public place?

For the purposes of this Act, a person is taken to have exhibited a film in a public place if the person –

- (a) arranged or conducted the exhibition of the film in the public place; or
- (b) had the superintendence or management of the public place in which the film was exhibited.

4A. Films contained on devices consisting only of classified films

Despite any other provision of this Act, a film that –

- (a) is contained on one device; and
- (b) consists only of 2 or more classified films –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 4A

Part 1 – Preliminary

is to be treated for the purposes of this Act as if each of the classified films were on a separate device.

PART 2 – PUBLICATIONS

Division 1 –

5 - 6.

Division 2 –

7 - 13.

Division 3 – Category 1 and 2 restricted publications

14. Conditions applying to category 1 restricted publications

- (1) The following conditions apply in relation to a publication that is classified category 1 restricted:
 - (a) the publication must not be sold or delivered to a minor;
 - (b) the publication must not be exhibited in a public place unless the publication is contained in a sealed package;
 - (c) if the sealed package referred to in paragraph (b) is made of transparent material–
 - (i) the publication must bear the determined markings; and

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 14

Part 2 – Publications

- (ii) no more than the top 6 centimetres of the publication is to be exhibited or displayed in a public place;
 - (d) if the sealed package referred to in paragraph (b) is made of opaque material– both the publication and the package must bear the determined markings;
 - (e) the publication must not be exhibited in a public place unless it is exhibited in a designated area of the public place in a vertical rack.
- (1A) If –
- (a) a publication is reclassified under section 22CH(4), 39 or 97A of the Commonwealth Act; or
 - (b) the Board revokes a classification for a publication under section 22B(3) or 22CH(1) of that Act –
- it is sufficient compliance with subsection (1)(c)(i) and (d) for a period of 30 days after the decision to reclassify or revoke takes effect if the publication bears the determined markings applicable to the publication before that reclassification or revocation.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 2 – Publications

s. 15

- (2) It is sufficient compliance with subsection (1)(c)(ii) if that part of the publication below the top 6 centimetres –
 - (a) is hidden by a cover, rack or other thing; and
 - (b) cannot be seen except by handling the publication.
- (3) For the purpose of subsection (1)(e), **designated area** means an area which is –
 - (a) used to exhibit or display publications classified category 1 restricted; and
 - (b) easily identifiable and clearly marked as an area where publications which are unsuitable for perusal by minors are exhibited.

15. Conditions applying to category 2 restricted publications

- (1) The following conditions apply in relation to a publication that is classified category 2 restricted:
 - (a) the publication must not be sold, delivered or exhibited to a minor;
 - (b) the publication must not be exhibited in a public place or in such a manner that it is visible from a public place;

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 15

Part 2 – Publications

- (c) the publication must not be sold or delivered to a person unless the publication bears the determined markings;
 - (d) the publication must not be sold or delivered to a person who has not made a direct request for the publication;
 - (e) the publication must not be sold or delivered to a person unless the publication is contained in a package made of plain opaque material.
- (2) If –
- (a) a publication is reclassified under section 22CH(4), 39 or 97A of the Commonwealth Act; or
 - (b) the Board revokes a classification for a publication under section 22B(3) or 22CH(1) of that Act –

it is sufficient compliance with subsection (1)(c) for a period of 30 days after the decision to reclassify or revoke takes effect if the publication bears the determined markings applicable to the publication before that reclassification or revocation.

16. Offences in relation to category 1 and 2 restricted publications

- (1) A person must not sell, deliver, exhibit or otherwise deal with, or cause or permit to be sold, delivered, exhibited or otherwise dealt with, a publication classified category 1 restricted or category 2 restricted otherwise than in accordance with the conditions applicable to that publication.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (2) A person must not sell a publication classified category 2 restricted to another person knowing or having reason to believe that that other person intends to deliver or exhibit the publication to a minor.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (3) A responsible person in respect of a business carried on in or on any premises must not –
- (a) permit a minor employed in that business to have access to a publication classified category 2 restricted; or
 - (b) cause or permit such a minor to sell a publication classified category 2 restricted.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 16A

Part 2 – Publications

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

16A. Sale or delivery of publications contrary to conditions

If a publication is classified Unrestricted or category 1 restricted subject to a condition imposed under section 13A of the Commonwealth Act, a person must not sell or deliver the publication except in accordance with that condition.

Penalty: Fine not exceeding 20 penalty units.

16B. Consumer advice for Unrestricted publications

A person must not sell a publication classified Unrestricted in respect of which the Board has determined consumer advice under section 20(2) of the Commonwealth Act unless the consumer advice is displayed on the publication or the packaging of the publication.

Penalty: Fine not exceeding 20 penalty units.

Division 4 – Other publications and offences

17. Offences in relation to unclassified objectionable publications

(1) Subject to subsection (2), a person must not –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 2 – Publications

s. 17

-
- (a) sell or deliver an unclassified objectionable publication or cause or permit such a publication to be sold or delivered; or
 - (b) exhibit, or cause or permit to be exhibited, an unclassified objectionable publication in a public place or in such a manner that it is visible from a public place.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

(2)

(3) A person is not to be convicted of an offence under subsection (1) if it is proved that –

- (a) since the offence was alleged to have been committed the publication has been classified; and
- (b) the act alleged to constitute the offence did not infringe any conditions, other than the conditions relating to prescribed markings, that would have been applicable to the publication had it been so classified at the time when the act was done.

(4) A person must not exhibit an unclassified objectionable publication to a minor.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 18

Part 2 – Publications

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (5) A person must not publish an advertisement relating to an unclassified objectionable publication or cause or permit such an advertisement to be published.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

18. Offences in relation to prohibited publications

- (1) A person must not –

- (a) sell or deliver a publication classified RC or cause or permit such a publication to be sold or delivered; or
- (b) exhibit, or cause or permit to be exhibited, a publication classified RC in a public place or in such a manner that it is visible from a public place.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (2) A person must not exhibit a publication classified RC to a minor.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 2 – Publications

s. 19

19. Offences in relation to misleading or deceptive markings

- (1) A person must not publish an unclassified publication with a marking, or in packaging with a marking, that indicates or suggests that the publication has been classified.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person must not publish a classified publication with a marking, or in packaging with a marking, that indicates that the publication is unclassified or has a different classification.

Penalty: Fine not exceeding 10 penalty units.

- (3) If –

- (a) a publication is reclassified under section 22CH(4), 39 or 97A of the Commonwealth Act; or
- (b) the Board revokes a classification for a publication under section 22B(3) or 22CH(1) of that Act –

it is sufficient compliance with this section for a period of 30 days after the decision to reclassify or revoke takes effect if the publication bears the determined markings applicable to the publication before that reclassification or revocation.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 20

Part 3 – Films

PART 3 – FILMS

Division 1 – Exhibition of films

20. Requirements for exhibiting film in public place

- (1) A person must not exhibit a film in a public place unless the film –
- (a) is classified; and
 - (b) is exhibited under the same title as that under which it is classified; and
 - (c) is exhibited in the form, without alteration or addition, in which it is classified.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (2) Subsection (1) is not contravened by reason only of the exhibition of a film –
- (a) under a title different from that under which it is classified if it is contained on one device that consists only of 2 or more classified films; or
 - (b) with a modification referred to in section 20A, 21(2) or 21(3) of the Commonwealth Act.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 21

21. Classification notice to be displayed when exhibiting film in public place

A person must not exhibit a film in a public place unless a notice in the approved form about classifications for films is displayed in that public place in a position where the notice may be clearly seen and easily read by members of the public.

Penalty: Fine not exceeding 5 penalty units.

22. RC or X 18+ film not to be exhibited in public place

A person must not exhibit in a public place a film classified RC or X 18+.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

23. RC, X 18+, R 18+ or MA 15+ film not to be exhibited if visible from public place

A person must not exhibit a film classified RC, X 18+, R 18+ or MA 15+ if the film can be seen from a public place.

Penalty: –

- (a) in the case of a film classified R 18+ or MA 15+ – a fine not exceeding 20 penalty units; or

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 24

Part 3 – Films

- (b) in the case of a film classified RC or X 18+ – a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

24. Unclassified RC, X 18+, R 18+ or MA 15+ film not to be exhibited if visible from public place

A person must not exhibit an unclassified film that would, if classified, be reasonably likely to be classified RC, X 18+, R 18+ or MA 15+ if the film can be seen from a public place.

Penalty: –

- (a) in the case of an unclassified film that would, if classified, be reasonably likely to be classified R 18+ or MA 15+ – a fine not exceeding 20 penalty units; or
- (b) in the case of an unclassified film that would, if classified, be reasonably likely to be classified RC or X 18+ – a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 25

25. RC, X 18+ or R 18+ film not to be exhibited privately in presence of minor

- (1) A person must not exhibit a film privately in the presence of a minor if the film is classified RC, X 18+ or R 18+.

Penalty: –

- (a) in the case of a film classified R 18+ – a fine not exceeding 20 penalty units; or
- (b) in the case of a film classified RC or X 18+ – a fine not exceeding 50 penalty units.
- (2) It is a defence to a prosecution under subsection (1) to prove that the defendant believed on reasonable grounds that the minor was an adult.

26. Unclassified RC, X 18+ or R 18+ film not to be exhibited in presence of minor

- (1) A person must not exhibit an unclassified film privately in the presence of a minor if the film would, if classified, be reasonably likely to be classified RC, X 18+ or R 18+.

Penalty: –

- (a) in the case of an unclassified film that would, if classified, be reasonably likely to be classified R 18+ – a fine not exceeding 20 penalty units; or

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 27

Part 3 – Films

(b) in the case of an unclassified film that would, if classified, be reasonably likely to be classified RC or X 18+ – a fine not exceeding 50 penalty units.

(2) It is a defence to a prosecution under subsection (1) to prove that the defendant believed on reasonable grounds that the minor was an adult.

27. R 18+ or MA 15+ film not to be exhibited on premises where films sold

A person must not exhibit a film on premises where films are sold if the film is classified R 18+ or MA 15+.

Penalty: Fine not exceeding 20 penalty units.

28. R 18+ film not to be exhibited in public place in presence of minor

(1) A person must not exhibit a film in a public place in the presence of a minor if the film is classified R 18+.

Penalty: Fine not exceeding 20 penalty units.

(2) It is a defence to a prosecution under subsection (1) to prove that –

(a) the minor produced to the defendant, or to an employee or agent of the defendant, acceptable proof of age before the minor

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 29

was admitted to the place where the film was exhibited; or

- (b) the defendant, or an employee or agent of the defendant, believed on reasonable grounds that the minor was an adult.

29. Parent not to allow minor to attend exhibition of R 18+ film

A person who is the parent of a minor must not allow that minor to attend the exhibition of a film if the person knows that the film –

- (a) is classified R 18+; or
- (b) is unclassified but would, if classified, be reasonably likely to be classified R 18+.

Penalty: Fine not exceeding 20 penalty units.

30. Minor not to attend exhibition of R 18+ film

A minor who is 15 or older must not attend the exhibition in a public place of a film classified R 18+ knowing that the film is so classified.

Penalty: Fine not exceeding 5 penalty units.

31. MA 15+ film not to be exhibited in public place in presence of unaccompanied minor

- (1) A person must not exhibit in a public place a film classified MA 15+ if –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 31

Part 3 – Films

- (a) a minor under 15 is present; and
- (b) the minor is not accompanied by the minor's parent.

Penalty: Fine not exceeding 20 penalty units.

- (2) For the purposes of subsection (1) –
 - (a) a minor does not cease to be accompanied if the minor's parent is temporarily absent from the exhibition of the film; and
 - (b) an offence is committed in respect of each unaccompanied minor under 15 present at the exhibition of the film.
- (3) It is a defence to a prosecution under subsection (1) to prove that the defendant, or the defendant's employee or agent –
 - (a) took reasonable steps to ensure that a minor under 15 was not present at the exhibition of the film; or
 - (b) believed on reasonable grounds that the minor so present was 15 or older; or
 - (c) believed on reasonable grounds that the person accompanying the minor so present was the minor's parent.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 32

Division 2 – Sale and delivery of films

32. Unclassified film not to be sold or delivered

- (1) A person must not –
- (a) sell or deliver an unclassified film; or
 - (b) cause or permit an unclassified film to be sold or delivered.

Penalty: Subject to subsection (2), a fine not exceeding 25 penalty units.

- (2) If a court convicts a person of an offence under subsection (1) and, by that time, the film to which the conviction relates has been classified, the court may, on the application of the prosecutor made at any time before sentence, impose on the person whichever of the following penalties applies to the film instead of the penalty under subsection (1):
- (a) if the film has been classified X 18+ or RC – a fine not exceeding 100 penalty units;
 - (b) if the film has been classified MA 15+ or R 18+ – a fine not exceeding 50 penalty units.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 33

Part 3 – Films

33. Classified film not to be sold or delivered under different title or in altered form

- (1) A person must not sell or deliver a classified film unless the film is sold or delivered –
- (a) under the same title as that under which it is classified; and
 - (b) in the form, without alteration or addition, in which it is classified.

Penalty: –

- (a) in the case of a film classified G, PG or M – a fine not exceeding 5 penalty units; or
 - (b) in the case of a film classified MA 15+ or R 18+ – a fine not exceeding 20 penalty units.
- (2) Subsection (1) is not contravened by reason only of the sale or delivery of a classified film –
- (a) under a title different from that under which it is classified if it is contained on one device that consists only of 2 or more classified films; or
 - (b) with a modification referred to in section 20A, 21(2) or 21(3) of the Commonwealth Act.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 34

34. Classification notice to be displayed on premises where film sold

A person must not sell a film on any premises unless a notice in the approved form about classifications for films is displayed on those premises in a position where the notice may be clearly seen and easily read by members of the public.

Penalty: Fine not exceeding 5 penalty units.

35. Film sold or delivered is to bear determined markings and consumer advice

- (1) A person must not sell or deliver a film unless the determined markings relevant to the classification of the film and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the film.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not sell or deliver an unclassified film if the container, wrapping or casing in which the film is sold bears a marking that indicates or suggests that the film has been classified.

Penalty: Fine not exceeding 20 penalty units.

- (3) A person must not sell or deliver a classified film if the container, wrapping or casing in which the film is sold bears a marking that

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 36

Part 3 – Films

indicates or suggests that the film is unclassified or has a different classification.

Penalty: Fine not exceeding 20 penalty units.

(4) If –

- (a) a film is reclassified under section 22CH(4), 39 or 97A of the Commonwealth Act; or
- (b) the Board revokes a classification or consumer advice for a film under section 22B(3) or 22CH(1) of that Act –

display of the determined markings and consumer advice applicable to the film before that reclassification or revocation is sufficient compliance with this section for a period of 30 days after the decision to reclassify or revoke takes effect.

36. RC or X 18+ film not to be sold or delivered

A person must not –

- (a) sell or deliver a film classified RC or X 18+; or
- (b) cause or permit a film classified RC or X 18+ to be sold or delivered.

Penalty: –

- (a) if the sale or delivery is to a minor – a fine not exceeding

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 37

200 penalty units or imprisonment for a term not exceeding 2 years, or both; or

- (b) in any other case – a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

37. R 18+ film not to be sold or delivered to minor

- (1) A person must not sell or deliver a film classified R 18+ to a minor.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (2) It is a defence to a prosecution under subsection (1) to prove that –

(a) the minor produced to the defendant, or to an employee or agent of the defendant, acceptable proof of age before the defendant sold or delivered the film to the minor and the defendant, or the defendant's employee or agent, believed on reasonable grounds that the minor was an adult; or

(b) in the case of a prosecution for delivery of such a film, the minor was employed by the defendant or the defendant's employer and the delivery took place in the course of that employment.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 38

Part 3 – Films

38. MA 15+ film not to be sold or delivered to minor under 15

- (1) A person must not sell or deliver a film classified MA 15+ to a minor under 15 if the person is not the minor's parent.

Penalty: Fine not exceeding 20 penalty units.

- (2) It is a defence to a prosecution under subsection (1) to prove that the defendant or the defendant's employee or agent believed on reasonable grounds that –
- (a) the minor was 15 or older; or
 - (b) the minor's parent had consented to the sale or delivery.

39. Minor who is 15 or older not to buy R 18+ film

A minor who is 15 or older must not buy a film classified R 18+ knowing that it is so classified.

Penalty: Fine not exceeding 5 penalty units.

Division 3 – Review of classification of films for sale

40. Interpretation of Division

In this Division, *film* means a film offered for sale in this State.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 41

41. Application to review classification of film emphasising cruelty or violence

- (1) A person who considers that a classified film unduly emphasises matters of cruelty or violence may apply to the Minister to review the film's classification.
- (2) The application is to be –
 - (a) in writing; and
 - (b) lodged with the Minister; and
 - (c) accompanied by the prescribed fee and particulars of the matters of cruelty or violence that the applicant considers are unduly emphasised by the classified film.
- (3)

41A. Review Committee

- (1) On receipt of an application under section 41, the Minister must establish a Review Committee.
- (2) If the Minister considers that a classified film unduly emphasises matters of cruelty or violence, the Minister may establish a Review Committee.
- (3) The Review Committee is to consist of not less than 3 persons who in the opinion of the Minister have suitable knowledge, experience

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 42

Part 3 – Films

and qualifications to review the film's classification.

- (4) The members of the Review Committee are to be appointed by the Minister on such terms and conditions as the Minister determines.
- (5) The Review Committee must review the classification of the film.

42. Criteria for reviewing classification of film

The Review Committee must, in reviewing the classification of a classified film, have regard to—

- (a) the standards of morality, decency and propriety generally accepted by reasonable adults; and
- (b) any artistic or educational merit that the film may possess and the general character of the film; and
- (c) the persons or class of person to whom or to which the film is sold or likely to be sold.

43. Review Committee to make recommendation to Minister after review

- (1) Within 14 days after reviewing the classification of a film classified R 18+ the Review Committee must make whichever of the following recommendations to the Minister it considers appropriate:

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 44

- (a) a recommendation that the sale and delivery of the film should be prohibited on the ground that it unduly emphasises matters of cruelty or violence;
 - (b) a recommendation that the sale and delivery of the film should not be prohibited.
- (2) Within 14 days after reviewing the classification of any other classified film the Review Committee must make whichever of the following recommendations to the Minister it considers appropriate:
- (a) a recommendation that the classification of the film for this State should be changed to a higher classification specified in the recommendation on the ground that the classification assigned to the film under the Commonwealth Act is inappropriate because of the level or amount of cruelty or violence depicted in the film;
 - (b) a recommendation that the classification of the film for this State should not be changed.

44. Ministerial action on recommendation

- (1) On receiving a recommendation under section 43(1)(a), the Minister must make an order prohibiting the sale and delivery of the relevant classified film.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 44

Part 3 – Films

- (2) On receiving a recommendation under section 43(2)(a), the Minister must make an order assigning a higher classification to the relevant classified film, being the classification specified in the recommendation.
- (3) On receiving a recommendation under section 43(1)(b) or (2)(b), the Minister must –
 - (a) accept the recommendation; or
 - (b) if dissatisfied with the recommendation—request the Review Committee to review it.
- (4) A request under subsection (3)(b) is to –
 - (a) be in writing; and
 - (b) specify the grounds on which the Minister bases the request.
- (5) On receiving a request under subsection (3)(b), the Review Committee must, having regard to the grounds on which the Minister has based the request and the criteria in section 42, review the recommendation to which the request relates and, within 14 days of the review, make another recommendation—
 - (a) confirming its original recommendation; or
 - (b) setting aside its original recommendation and making a recommendation under section 43(1)(a) or (2)(a).

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 45

- (6) If the Minister receives another recommendation under subsection (5) –
- (a) confirming an original recommendation under section 43(1)(b) or (2)(b) – the Minister must accept the original recommendation; or
 - (b) making a recommendation under section 43(1)(a) – the Minister must make an order prohibiting the sale and delivery of the relevant film; or
 - (c) making a recommendation under section 43(2)(a) – the Minister must make an order assigning a higher classification to the relevant classified film, being the classification specified in the recommendation.

45. Effect of Ministerial order

A classified film to which an order under section 44(2) or (6)(c) relates has, on the taking effect of the order, the classification assigned to it by the order, and for the purposes of this Act, that classification has effect in this State notwithstanding the classification assigned to the film under the Commonwealth Act.

46. Provisions relating to orders

- (1) An order under section 44 –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 47

Part 3 – Films

- (a) is not a statutory rule within the meaning of the *Rules Publication Act 1953*; and
 - (b) is to be published in the *Gazette* and in at least one daily newspaper published and circulated generally in Tasmania; and
 - (c) takes effect on such day as is specified in the order, being a day not earlier than 7 days after the date of its publication in the *Gazette*.
- (2)
- (3) The Minister must give notice of the making of the order to the person who applied under section 41(1) for the review of the classified film to which the order relates.

47. Provisions relating to Ministerial acceptance of recommendation

If the Minister accepts a recommendation under section 43(1)(b) or (2)(b), the Minister must give notice of acceptance to the person who applied to have the relevant film's classification reviewed, that the Minister has accepted the recommendation of the Review Committee that the sale and delivery of the film should not be prohibited or that the film's classification for this State should not be changed.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 3 – Films

s. 48

48. Offence to sell or deliver film that has been prohibited

A person must not sell or deliver, or cause or permit to be sold or delivered, a film the sale and delivery of which has been prohibited by an order under section 44(1) or (6)(b).

Penalty: –

- (a) if the sale or delivery is to a minor – a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both; or
- (b) in any other case – a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 49

Part 4 – Computer Games

PART 4 – COMPUTER GAMES

49. Requirements for selling, &c., computer game in public place

- (1) A person must not sell, deliver or demonstrate a computer game in a public place unless the computer game –
 - (a) is classified; and
 - (b) is sold, delivered or demonstrated under the same title as that under which it is classified; and
 - (c) is sold, delivered or demonstrated in the form, without alteration or addition, in which it is classified.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (2) Subsection (1) is not contravened by reason only that the computer game that is, or is to be, sold, delivered or demonstrated has a modification referred to in section 20A, 21(2) or 21(3) of the Commonwealth Act.

50. Classification notice to be displayed when selling or demonstrating computer game in public place

A person must not sell or demonstrate a computer game in a public place unless a notice in the approved form about classifications for

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 4 – Computer Games

s. 51

computer games is displayed in that public place in a position where the notice may be clearly seen and easily read by members of the public.

Penalty: Fine not exceeding 5 penalty units.

51. Computer game sold or delivered is to bear determined markings and consumer advice

- (1) A person must not sell or deliver a computer game unless the determined markings relevant to the classification of the computer game and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the computer game.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not sell or deliver an unclassified computer game if the container, wrapping or casing in which the computer game is sold bears a marking that indicates or suggests that the computer game has been classified.

Penalty: Fine not exceeding 20 penalty units.

- (3) A person must not sell or deliver a classified computer game if the container, wrapping or casing in which the computer game is sold bears a marking that indicates or suggests that the computer game is unclassified or has a different classification.

Penalty: Fine not exceeding 20 penalty units.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 51

Part 4 – Computer Games

- (3A) A person must not make a computer game available for playing on a pay and play basis unless the determined markings relevant to the classification of the computer game and relevant consumer advice, if any, are displayed on the device used for playing the game.

Penalty: Fine not exceeding 20 penalty units.

- (3B) If 2 or more computer games are available for playing on a device referred to in subsection (3A), the determined markings and consumer advice to be displayed on the device are those relevant to the computer game with the highest classification under the Commonwealth Act.

- (4) If –

- (a) a computer game is reclassified under section 22CH(4) or 39 of the Commonwealth Act; or
- (b) the Board revokes a classification or consumer advice for a computer game under section 22B(3) or 22CH(1) of that Act –

display of the determined markings and consumer advice applicable to the computer game before that reclassification or revocation is sufficient compliance with this section for a period of 30 days after the decision to reclassify or revoke takes effect.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 4 – Computer Games

s. 52

52. RC computer game not to be sold or delivered

A person must not sell or deliver –

- (a) a computer game classified RC; or
- (b) an unclassified computer game which would, if classified, be reasonably likely to be classified RC.

Penalty: –

- (a) if the sale or delivery is to a minor – a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both; or
- (b) in any other case – a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

53. RC, R 18+ or MA 15+ computer game not to be demonstrated in public place

A person must not demonstrate in a public place

–

- (a) a computer game classified RC, R 18+ or MA 15+; or
- (b) an unclassified computer game which would, if classified, be reasonably likely to be classified RC, R 18+ or MA 15+.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 54

Part 4 – Computer Games

Penalty: –

- (a) in the case of a computer game classified RC – a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 2 years, or both; or
- (ab) in the case of a computer game classified R 18+ – a fine not exceeding 50 penalty units; or
- (b) in the case of a computer game classified MA 15+ – a fine not exceeding 20 penalty units.

54. RC or R 18+ computer game not to be demonstrated privately in presence of minor

- (1) A person must not demonstrate a computer game privately in the presence of a minor if the game –
 - (a) is classified RC or R 18+; or
 - (b) is an unclassified computer game which would, if classified, be reasonably likely to be classified RC or R 18+.

Penalty: Fine not exceeding 20 penalty units.

- (2) It is a defence to a prosecution under subsection (1) to prove that the defendant believed on reasonable grounds that the minor was an adult.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 4 – Computer Games

s. 54A

54A. R 18+ computer games not to be sold or delivered to minor under 18

- (1) A person must not sell or deliver a computer game classified R18+ to a minor under 18.

Penalty: Fine not exceeding 20 penalty units.

- (2) It is a defence to a prosecution under subsection (1) to prove that the defendant, or the defendant's employee or agent believed, on reasonable grounds that the minor was 18 years or older.

55. MA 15+ computer game not to be sold or delivered to minor under 15

- (1) A person must not sell or deliver a computer game classified MA 15+ to a minor under 15 if the person is not the parent of the minor.

- (2) It is a defence to a prosecution under subsection (1) to prove that the defendant, or the defendant's employee or agent, believed on reasonable grounds that –

(a) the minor was 15 or older; or

(b) the minor's parent had consented to the sale or delivery.

Penalty: Fine not exceeding 20 penalty units.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 56

Part 5 – Advertisements

PART 5 – ADVERTISEMENTS

56. Unapproved advertisement not to be published, &c.

A person must not publish an advertisement for a film or computer game –

- (a) if the advertisement has not been submitted for approval under section 29 of the Commonwealth Act and, if submitted, would be reasonably likely to be refused approval; or
- (b) if the advertisement has been refused approval under section 29 of the Commonwealth Act; or
- (ba) if the advertisement was approved under section 29 of the Commonwealth Act and the approval is revoked under section 13(5) or 21A of that Act; or
- (c) if the advertisement is approved under section 29 of the Commonwealth Act in an altered form to the form in which it is approved; or
- (d) if the advertisement is approved under section 29 of the Commonwealth Act subject to conditions – except in accordance with those conditions.

Penalty: Fine not exceeding 20 penalty units.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 5 – Advertisements

s. 57

57. Certain advertisements for films, publications and computer games not to be published

- (1) A person must not publish an advertisement for –
- (a) a publication classified RC; or
 - (b) a publication classified category 2 restricted; or
 - (c) a film classified RC or X 18+; or
 - (d) an unclassified film, if the advertisement contravenes the Advertising Scheme; or
 - (e) a computer game classified RC; or
 - (f) an unclassified computer game, if the advertisement contravenes the Advertising Scheme.

Penalty: Fine not exceeding 20 penalty units.

- (2) For the purposes of this section, if a person publishes an advertisement for an unclassified film or unclassified computer game at the request of another person, that other person alone is taken to have published the advertisement.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 58

Part 5 – Advertisements

58. Advertisement for classified film not to be screened during public exhibition of other film of lower classification

A person must not screen in a public place an advertisement for a classified film during a program for the exhibition of another classified film unless the film exhibited has a classification specified in column 1 of an item in the following table and the advertised film has a classification specified opposite it in column 2 of that item:

Item	Column 1 Exhibited film	Column 2 Advertised film
1.	G	G
2.	PG	PG or G
3.	M	M, PG or G
4.	MA 15+	MA 15+, M, PG or G
5.	R 18+	R 18+, MA 15+, M, PG or G

Penalty: Fine not exceeding 20 penalty units.

59. Classified film not to be sold or delivered with advertisement for film of higher classification

A person must not sell or deliver, or cause or permit to be sold or delivered, a classified film that is accompanied by an advertisement for another classified film unless the film sold has a classification specified in column 1 of an item in

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 5 – Advertisements

s. 59A

the following table and the advertised film has a classification specified opposite it in column 2 of that item:

Item	Column 1 Film sold	Column 2 Advertised film
1.	G	G
2.	PG	PG or G
3.	M	M, PG or G
4.	MA 15+	MA 15+, M, PG or G
5.	R 18+	R 18+, MA 15+, M, PG or G

Penalty: Fine not exceeding 20 penalty units.

59A. Advertisement for unclassified film to be in accordance with Advertising Scheme

- (1) A person must not screen in a public place an advertisement for an unclassified film during a program for the exhibition of a classified film if the advertisement contravenes the Advertising Scheme.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not sell or deliver, or cause to be sold or delivered, a classified film that is accompanied by an advertisement for an unclassified film if the advertisement contravenes the Advertising Scheme.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 60

Part 5 – Advertisements

Penalty: Fine not exceeding 20 penalty units.

60. Classified computer game not to be sold, delivered or demonstrated with advertisement for computer game of higher classification

A person must not sell, deliver or demonstrate, or cause or permit to be sold, delivered or demonstrated, a classified computer game that is accompanied by an advertisement for another classified computer game unless the computer game sold has a classification specified in column 1 of an item in the following table and the advertised computer game has a classification specified opposite it in column 2 of that item:

Item	Column 1 Computer game sold	Column 2 Advertised computer game
1.	G	G
2.	PG	PG or G
3.	M	M, PG or G
4.	MA 15+	MA 15+, M, PG or G
5.	R 18+	R 18+, MA 15+, M, PG or G

Penalty: Fine not exceeding 20 penalty units.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 5 – Advertisements

s. 60A

60A. Advertisement for unclassified computer game to be in accordance with Advertising Scheme

A person must not sell, deliver or demonstrate, or cause or permit to be sold, delivered or demonstrated, a classified computer game that is accompanied by an advertisement for an unclassified computer game if the advertisement contravenes the Advertising Scheme.

Penalty: Fine not exceeding 20 penalty units.

61. Misleading or deceptive advertisement not to be published

- (1) A person must not publish an advertisement for an unclassified publication, film or computer game with a marking that indicates or suggests that the publication, film or computer game is classified.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not publish an advertisement for a classified publication, film or computer game with a marking that indicates or suggests that the publication, film or computer game is unclassified or has a different classification.

Penalty: Fine not exceeding 20 penalty units.

- (3) If –
 - (a) a publication, film or computer game is reclassified under section 22CH(4), 39 or 97A of the Commonwealth Act; or

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 62

Part 5 – Advertisements

- (b) the Board revokes a classification for a publication, film or computer game under section 22B(3) or 22CH(1) of that Act –

publication of the determined markings applicable to the publication, film or computer game before that reclassification or revocation is sufficient compliance with subsection (2) for a period of 30 days after the decision to reclassify or revoke takes effect.

62. Classification symbols, &c., to be published with advertisement

A person must not publish a publication containing an advertisement for –

- (a) a film; or
- (b) a publication classified category 1 restricted; or
- (c) a computer game –

unless the publication also contains a list of the classification symbols and determined markings for films or publications or computer games.

Penalty: Fine not exceeding 20 penalty units.

63. Certain advertisements to contain determined markings and consumer advice

- (1) A person must not publish an advertisement for a classified film or computer game unless –
- (a) the advertisement contains the determined markings relevant to the classification of the film or computer game and relevant consumer advice, if any; and
 - (b) the determined markings and consumer advice are displayed –
 - (i) in the manner determined under section 8 of the Commonwealth Act; and
 - (ii) so as to be clearly visible, having regard to the size and nature of the advertisement.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not publish an advertisement for a publication classified category 1 restricted unless–
- (a) the advertisement contains the determined markings relevant to the publication’s classification; and
 - (b) the determined markings are displayed so as to be clearly visible, having regard to the size and nature of the advertisement.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 63

Part 5 – Advertisements

Penalty: Fine not exceeding 20 penalty units.

(3) If –

- (a) a publication, film or computer game is reclassified under section 22CH(4), 39 or 97A of the Commonwealth Act; or
- (b) the Board revokes a classification or consumer advice for a publication, film or computer game under section 22B(3) or 22CH(1) of that Act –

display of the determined markings and consumer advice applicable to the publication, film or computer game before that reclassification or revocation is sufficient compliance with subsection (1) for a period of 30 days after the decision to reclassify or revoke takes effect.

PART 6 – CALL IN PROVISIONS

64. Calling in submittable publication for classification

(1) If–

- (a) the Minister or Director has reasonable grounds to believe that a publication is a submittable publication; and
- (b) the publication is being published in Tasmania or the Minister or Director has reasonable grounds to believe that it will be published in Tasmania–

the Minister or Director may, by notice given to the publisher of the publication, require the publisher to submit to the Board an application for classification of the publication, or of subsequent issues of the publication.

(2) A person to whom a notice under subsection (1) is given must, within 3 business days after receiving the notice, comply with the notice.

Penalty: Fine not exceeding 50 penalty units.

(3) It is a defence to a prosecution under subsection (2) to prove that the defendant did not intend –

- (a) to publish the publication in Tasmania;
or
- (b) to cause, authorise, permit or license the publication to be published in Tasmania.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 64A

Part 6 – Call In Provisions

64A. Calling in films for classification

(1) If –

- (a) the Minister or Director has reasonable grounds to believe that an unclassified film is not an exempt film; and
- (b) the film is being published in Tasmania or the Minister or Director has reasonable grounds to believe that it will be published in Tasmania –

the Minister or Director may, by notice in writing given to the publisher of the film, require the publisher to submit an application for classification of the film.

- (2) The Minister or Director must cause notice of a decision under subsection (1) to be published in the Commonwealth Gazette.
- (3) A person to whom a notice under this section is given must, within 3 business days after receiving the notice, comply with the notice.

Penalty: Fine not exceeding 50 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (3) to prove that the defendant did not intend –
 - (a) to publish the film in Tasmania; or
 - (b) to cause, authorise, permit or license the film to be published in Tasmania.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 6 – Call In Provisions

s. 65

65. Calling in computer game for classification

(1) If–

- (a) the Minister or Director has reasonable grounds to believe that a computer game is likely to contain contentious material; and
- (b) the computer game is being published in Tasmania, or the Minister or Director has reasonable grounds to believe that it will be published in Tasmania–

the Minister or Director may, by notice given to the publisher of the game, require the publisher to submit to the Board an application for classification of the game.

(1A) If –

- (a) the Minister or Director has reasonable grounds to believe that an unclassified computer game is not an exempt computer game; and
- (b) the computer game is being published in Tasmania, or the Minister or Director has reasonable grounds to believe that it will be published in Tasmania –

the Minister or Director may, by notice in writing given to the publisher of the computer game, require the publisher to submit an application for classification of the computer game.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 66

Part 6 – Call In Provisions

- (2) A person to whom a notice under subsection (1) is given must, within 3 business days after receiving the notice, comply with the notice.

Penalty: Fine not exceeding 50 penalty units.

- (3) It is a defence to a prosecution under subsection (2) to prove that the defendant did not intend –
- (a) to publish the computer game in Tasmania; or
 - (b) to cause, authorise, permit or license the computer game to be published in Tasmania.

66. Board may call in advertisement

- (1) The Minister or Director may, by notice given to–
- (a) the publisher of a film that is being published in Tasmania, or that the Minister or Director has reasonable grounds to believe will be published in Tasmania; or
 - (b) the publisher of a computer game that is being published in Tasmania, or that the Minister or Director has reasonable grounds to believe will be published in Tasmania–

require the publisher to submit to the Board for approval a copy of every advertisement used or

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 6 – Call In Provisions

s. 66A

intended to be used in connection with the publishing.

- (2) A person to whom a notice under subsection (1) is given must, within 3 business days after receiving the notice, comply with the notice.

Penalty: Fine not exceeding 50 penalty units.

- (3) It is a defence to a prosecution under subsection (2) to prove that the defendant did not intend –
- (a) to publish the film or computer game in Tasmania; or
 - (b) to cause, authorise, permit or license the film or computer game to be published in Tasmania.

66A. Calling in publication, film or computer game for reclassification

- (1) If –
- (a) the Board proposes to reclassify a publication, film or computer game under section 39 of the Commonwealth Act; and
 - (b) the publisher of the publication, film or computer game resides in Tasmania or has an office in Tasmania –

the Director or the Minister may, by notice in writing given to the publisher, require the publisher to submit a copy of the publication,

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 66B

Part 6 – Call In Provisions

film or computer game for the purpose of reclassifying it.

- (2) A person to whom a notice under this section is given must, within 3 business days after receiving the notice, comply with the notice.

Penalty: Fine not exceeding 50 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) to prove that the defendant did not have a copy of the publication, film or computer game.

66B. Obtaining copies for review

- (1) If –
- (a) an application is made for a review of a classification decision under the Commonwealth Act by a person who is not the original applicant for classification of the publication, film or computer game concerned; and
 - (b) the Board or the Review Board does not have a copy of the publication, film or computer game and a copy is not available to it; and
 - (c) the original applicant or the publisher of the publication, film or computer game resides in Tasmania or has an office in Tasmania –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 6 – Call In Provisions

s. 66B

the Convenor or the Minister may, by notice in writing given to the original applicant or publisher, require the original applicant or publisher to make a copy of the publication, film or computer game available for the purpose of the review.

- (2) A person to whom a notice under this section is given must, within 3 business days after receiving the notice, comply with the notice.

Penalty: Fine not exceeding 50 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) to prove that the defendant did not have a copy of the publication, film or computer game.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 67AA

Part 7 –

PART 7 –

67AA - 70.

**PART 8 – CHILD EXPLOITATION MATERIAL AND
BESTIALITY PRODUCTS UNLAWFUL**

71. Interpretation of Part

In this Part –

access, in relation to material, includes the display of the material by an electronic medium or any other output of the material by an electronic medium;

bestiality product means a publication, film or computer game that depicts in pictorial form bestiality;

child means a person under the age of 18 years;

child exploitation material means material that describes or depicts, in a way that a reasonable person would regard as being, in all the circumstances, offensive, a person who is or who appears to be under the age of 18 years –

- (a) engaged in sexual activity; or
- (b) in a sexual context; or
- (c) as the subject of torture, cruelty or abuse (whether or not in a sexual context);

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 72

Part 8 – Child Exploitation Material and Bestiality Products Unlawful

electronic medium means any thing that contains data from which text, images or sound can be generated;

make includes produce, film, print, photograph and record;

material includes any film, printed matter, electronic data and any other thing of any kind (including any computer image or other depiction);

person includes part of a person.

72. Offence to make or reproduce bestiality product

A person must not –

- (a) make or reproduce a bestiality product; or
- (b) cause or permit a bestiality product to be made or reproduced; or
- (c) be in any way concerned in the making and reproduction of a bestiality product.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

72A. Offence to make or reproduce child exploitation material

A person must not –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

- (a) make or reproduce child exploitation material; or
- (b) cause or permit child exploitation material to be made or reproduced; or
- (c) be in any way involved in the making or reproduction of child exploitation material.

Penalty: Fine not exceeding 300 penalty units or imprisonment for a term not exceeding 3 years, or both.

73. Offence to procure child to be involved in making child exploitation material

A person must not procure or invite or attempt to procure a child to be involved in the making of child exploitation material.

Penalty: Fine not exceeding 300 penalty units or imprisonment for a term not exceeding 3 years, or both.

73A. Offence to distribute child exploitation material

- (1) A person must not distribute, or do anything to facilitate the distribution of, child exploitation material.

Penalty: Fine not exceeding 300 penalty units or imprisonment for a term not exceeding 3 years, or both.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 74 Part 8 – Child Exploitation Material and Bestiality Products Unlawful

(2) In this section –

distribute includes –

- (a) send, sell, deal, supply, exhibit, transmit or communicate child exploitation material to another person, or enter into an agreement or arrangement to do so; and
- (b) make child exploitation material available for access by another person, or enter into an agreement or arrangement to do so.

74. Offence to possess bestiality product

A person must not have possession of –

- (a)
- (b) a bestiality product.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

74A. Possession of child exploitation material

A person must not –

- (a) possess child exploitation material; or

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 8 – Child Exploitation Material and Bestiality Products Unlawful

s. 74B

- (b) with intent, access, or attempt to access, child exploitation material.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

74B. Defence to offences in respect of child exploitation material

- (1) In any proceedings for an offence against this Part, it is a defence to prove that –
 - (a) the material to which the offence relates was classified (whether before or after the commission of the alleged offence) under the Commonwealth Act, other than as refused classification (RC); or
 - (b) the defendant engaged in the conduct that is alleged to constitute the offence for a genuine child protection, scientific, medical, legal, artistic or public benefit purpose and the defendant's conduct was, in the circumstances, reasonable for that purpose; or
 - (c) the defendant was a police officer acting in the course of his or her official duties and the defendant's conduct was reasonable, in the circumstances, for the performance of the duties; or
 - (d) the defendant was acting in the course of his or her official duties in connection

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 74B Part 8 – Child Exploitation Material and Bestiality Products Unlawful

with the classification of the material concerned under the Commonwealth Act; or

- (e) at the time the alleged offence was committed the defendant had reasonable grounds to believe that the material to which the offence relates was not child exploitation material.
- (2) In any proceedings for an offence against section 72A, 73 or 74A, it is also a defence to prove that the material to which the offence relates depicts sexual activity between the defendant and a person under the age of 18 years that is not an unlawful sexual act.
- (3) In any proceedings for an offence against section 74A(a), it is also a defence to prove that the material to which the offence relates came into the defendant's possession unsolicited and, as soon as the defendant became aware that it was child exploitation material, he or she took reasonable steps to dispose of that material.
- (4) For the purposes of subsection (1) –
 - police officer* includes –
 - (a) a member of the Australian Federal Police; and
 - (b) a member of the police force or service of another State or a Territory of the Commonwealth;

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 8 – Child Exploitation Material and Bestiality Products Unlawful

s. 74B

unlawful sexual act means an act that constitutes an offence under section 124, 125B, 126, 127, 127A, 133 or 185 of the *Criminal Code*.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 75

Part 9 – Miscellaneous

PART 9 – MISCELLANEOUS

Division 1 – Enforcement and proceedings

75. Power of police officers and other persons to demand particulars

- (1) In this section, ***prescribed person*** means a person who –
- (a) exhibits, sells or delivers a film to another person or is about to exhibit, sell or deliver a film to another person; or
 - (b) demonstrates, sells or delivers a computer game to another person or is about to demonstrate, sell or deliver a computer game to another person; or
 - (c) sells or delivers a publication to another person or is about to sell or deliver a publication to another person.
- (2) A prescribed person who has reasonable cause to suspect that –
- (a) he or she may be about to commit an offence against this Act in respect of another person; or
 - (b) another person has committed or is about to commit an offence against this Act –

may demand the name, age and address of that other person.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 9 – Miscellaneous

s. 76

- (3) A police officer who has reasonable cause to suspect that a person has committed or is about to commit an offence against this Act may demand that person's name, age and address.
- (4) A person must not give false particulars, or fail or refuse to give particulars, to a prescribed person or police officer under subsection (2) or (3).

Penalty: Fine not exceeding 2 penalty units.

76. Power of entry and seizure

- (1) In this section, *prescribed premises* means premises where publications, films or computer games are sold or where films are exhibited or where computer games are demonstrated, and includes any premises associated with those premises.
- (2) For the purposes of ascertaining whether there is or has been a contravention of or failure to comply with this Act, a police officer may, at any reasonable time, without warrant, enter any prescribed premises.
- (3) A police officer who has entered prescribed premises under the power conferred on that officer by subsection (2) may do all or any of the following things:
 - (a) search any room in, or any part of, the premises and examine anything in any such room or part;

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 77

Part 9 – Miscellaneous

- (b) require the production of anything kept on those premises;
 - (c) seize –
 - (i) anything in respect of which the police officer has reasonable grounds for believing that an offence against this Act has been or is being committed; or
 - (ii) any advertisement displayed contrary to the provisions of this Act;
 - (d) seize anything that the police officer has reasonable grounds for believing is relevant to the investigation of an offence against this Act.
- (4) If anything has been seized from premises under this section and a court has convicted a person of an offence against this Act in respect of that thing, it is forfeited to the Crown and may be disposed of or destroyed in such manner as the Attorney-General may direct.

77. Forfeiture of child exploitation material, &c.

- (1) This section applies if a person is prosecuted for an offence under Part 8.
- (2) The court may, if it considers material which is the subject of a charge for an offence under Part 8 to be child exploitation material or a

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 9 – Miscellaneous

s. 77A

bestiality product, order that the material or any electronic medium on which the material, or data from which the material may be composed, is stored, or both the material and any such electronic medium, be forfeited to the Crown.

- (3) The court may make an order under subsection (2) whether or not the person is convicted of the offence to which the child exploitation material or bestiality product relates.
- (4) If the person is convicted of an offence under Part 8, the court may also order that any thing used to commit the offence be forfeited to the Crown.
- (5) The court may also make any order that it considers appropriate to enforce the forfeiture.
- (6) This section does not limit the court's powers under the *Crime (Confiscation of Profits) Act 1993* or any other law.
- (7) When any material, electronic medium or other thing is forfeited to the Crown, the material, electronic medium or other thing becomes the Crown's property and may be disposed of or destroyed in such manner as the Attorney-General may direct.

77A. Forfeiture of other seized publications, films and computer games

- (1) Subject to the making of an order under this section, if –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 77A

Part 9 – Miscellaneous

- (a) proceedings are commenced for prescribed offences relating to 10 or more different products; and
- (b) the products were seized on the same day from the same premises –

any other products seized on that day from those premises may be retained by the Crown and, if 10 or more different products are forfeited to the Crown as a result of those proceedings, all of the other products not the subject of those proceedings are, at the expiry of the prescribed period, also forfeited to the Crown.

- (2) The owner of any products liable to forfeiture under this section (or the owner's legal representative) must, on making a written request to the Commissioner of Police within 2 months after the prescribed date, be allowed to view the products at a time and place fixed by the Commissioner of Police.
- (3) The owner of any products liable to forfeiture under this section may, within the prescribed period, apply to the court that convicted the owner of a prescribed offence for an order for return of the products.
- (4) An applicant for an order under this section must give notice of the application to the Commissioner of Police.
- (5) The Commissioner of Police is a party to any proceedings for an order under this section.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 9 – Miscellaneous

s. 77A

- (6) If an application is made for an order under this section, the products may be retained by the Crown until the application is determined but in all other respects the operation of subsection (1) is suspended until the application is determined.
- (7) The court may, on an application under this section, order that a product to which the application relates be returned to its owner if satisfied, on the balance of probabilities –
- (a) that the product –
 - (i) in the case of a film, is classified with a classification other than X 18+ or RC; or
 - (ii) in the case of a publication, is not a submittable publication or is classified with a classification other than RC; or
 - (iii) in the case of a computer game, is classified with a classification other than RC; or
 - (b) that a prescribed offence was not committed in relation to the product.
- (8) In this section –

prescribed date means the date on which a court convicts a person of a prescribed offence as a result of which the total number forfeited of the products seized

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 78

Part 9 – Miscellaneous

on the same day from the same premises
first equals or exceeds 10;

prescribed offence means an offence against
section 16(1), 17, 18, 32, 36, 52, 72 or
74;

prescribed period means 2 months after the
prescribed date or, if the owner of the
products (or the owner's legal
representative) requests that he or she be
allowed to view the products, 2 months
from the time fixed by the Commissioner
of Police for the viewing;

products means copies of publications, films
or computer games, and includes a
combination of such products.

- (9) For the purposes of this section, copies of a
publication, film or computer game do not
constitute different products.

78. Evidence

- (1) In any proceedings for an offence against this
Act –
- (a) a certificate signed or purporting to be
signed by the Director, Deputy Director
or Convenor and stating that –
- (i) a publication, film or computer
game is, or was on a specified

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

date, classified as specified in the certificate; or

- (ia) a publication, film or computer game was not, at a date specified in the certificate, classified under the Commonwealth Act or was, at a date specified in the certificate, classified under the Commonwealth Act at a classification specified in the certificate; or
- (ii) a publication, film or computer game is not classified, or is not classified at a classification specified in the certificate; or
- (iii) an advertisement described in the certificate is approved or has been refused approval or has not been approved—

is evidence of the facts stated in the certificate; and

(b)

- (2) A court that convicts or finds a person guilty of an offence against this Act may, on the application of the prosecutor, make an order that the person must pay, by way of costs, either or both of the following:
 - (a) the amount of any fee incurred in obtaining a certificate under subsection

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 79

Part 9 – Miscellaneous

- (1)(a) for the purposes of prosecuting the offence;
 - (b) the amount of any fee incurred by the prosecution for classification.
- (3) An order under subsection (2) is in addition to any other penalty the court may impose.

79. Proceedings on prosecutions

Notwithstanding anything in the *Justices Act 1959* to the contrary –

- (a) proceedings for an offence against section 72, 72A or 73 may be commenced at any time; and
- (ab) proceedings for an offence against section 73A, 74 or 74A may be commenced at any time within a period of 2 years after the time when the offence is alleged to have been committed; and
- (b) proceedings in respect of any other offence under this Act may be commenced at any time within a period of 12 months after the time when the offence is alleged to have been committed.

80. Matters averred to in complaint

- (1) In any proceedings for an offence against this Act, an averment in a complaint that a specified

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 9 – Miscellaneous

s. 81

publication, film or computer game has been assigned a specified classification is, in the absence of proof to the contrary, to be accepted as proof –

- (a) that the publication, film or computer game has been assigned that classification; and
 - (b) that the publication, film or computer game was so classified on the day the act alleged to constitute the offence in the complaint was committed.
- (2) In any proceedings for an offence against this Act, an averment in a complaint that a person was a child, a minor, a minor under 15 or a minor under 18 is, in the absence of proof to the contrary, to be accepted as proof that the person was a child, a minor, a minor under 15 or a minor under 18, as the case may be, on the day the act alleged to constitute the offence in the complaint was committed.

81. Defence to offences with respect to minors

- (1) In any proceedings for an offence against Part 2 alleged to have been committed in respect of a minor, it is a defence to prove that at the time the offence was committed the defendant had reasonable grounds for believing that that minor was an adult or was married.
- (2)

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 82

Part 9 – Miscellaneous

82.

83. Higher penalty for offence committed by body corporate

If a body corporate is convicted of an offence against this Act, the penalty that the court may impose is a fine not exceeding 2 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for the offence.

Division 2 – Administrative, consequential and transitional

84.

85. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Regulations made under this Act may contain provisions of a savings or transitional nature consequent upon the enactment of this Act.
- (3) A provision of a regulation made pursuant to subsection (2) may, if the regulation so provides, take effect on the date referred to in section 2 or a later date.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 9 – Miscellaneous

s. 86

86. *The amendments effected by this section have been incorporated into the authorised version of the Sale of Condoms Act 1987.*

87. Repeals

The Acts specified in Schedule 2 are repealed.

88. Savings and transitional provisions

The savings and transitional provisions set out in Schedule 3 have effect.

88A. Transitional provisions (2001 amendments)

- (1) Section 51(3A) and (3B), as inserted by section 19 of the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001*, applies to a computer game whether published before or after the commencement of section 19 of that Act.
- (2) Sections 66A and 66B, as inserted by section 29 of the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001*, apply to a publication, film or computer game whether published before or after the commencement of section 29 of that Act.
- (3) An amendment of this Act made by any other provision of the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001* only applies to –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 88B

Part 9 – Miscellaneous

- (a) a publication, film or computer game first published on or after the commencement of that provision; or
 - (b) a publication, film or computer game for which an application for classification is made on or after that commencement.
- (4) If, as a result of amendments made to this Act by the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001*, the classification of a publication is different to the classification previously assigned to that publication by the Tasmanian Board, a person cannot be convicted of an offence, after the commencement of the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001*, under this Act as a result of the different classification in respect of the publication.

88B. Transitional provisions (2005 amendments)

- (1) The amendments made to the definition of “**contentious material**” in section 3 and to sections 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 36, 37, 38, 39, 43, 53, 55, 57, 58, 59, 60 and 77A by the *Justice and Related Legislation (Miscellaneous Amendments) Act 2005* apply to the doing of things on or after the commencement of those amendments.
- (2) A film that, immediately before the commencement of the amendments made by the *Justice and Related Legislation (Miscellaneous*

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 9 – Miscellaneous

s. 88B

Amendments) Act 2005 to the provisions specified in subsection (1), had a classification of a type specified in column 2 of an item in the following table is, for the purposes of applying the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* after that commencement, to be taken to have, and to have had at all times before that commencement when it had that classification, the classification of the type specified opposite it in column 3 of that item.

Table – Film classifications		
Column 1	Column 2	Column 3
Item	Former type of classification	New type of classification
1.	MA	MA 15+
2.	R	R 18+
3.	X	X 18+

- (3) A computer game that, immediately before the commencement of the amendments made by the *Justice and Related Legislation (Miscellaneous Amendments) Act 2005* to the provisions specified in subsection (1), had a classification of a type specified in column 2 of an item in the following table is, for the purposes of applying the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* after

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 88C

Part 9 – Miscellaneous

that commencement, to be taken to have, and to have had at all times before that commencement when it had that classification, the classification of the type specified opposite it in column 3 of that item.

Table – Computer game classifications		
Column 1	Column 2	Column 3
Item	Former type of classification	New type of classification
1.	G (8+)	PG
2.	M (15+)	M
3.	MA (15+)	MA 15+

88C. Transitional provisions (2008 amendments)

Each of the following provisions applies to a film and to a computer game whether the film or computer game is published before or after the commencement of that provision:

- (a) section 4A;
- (b) section 20(2);
- (c) section 33(2).

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

Part 9 – Miscellaneous

s. 88D

88D. Transitional provisions (2015 amendments)

- (1) An exemption under Part 7 of this Act, that was in force immediately before the commencement of Part 3 of the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2015*, is taken to remain in force according to its terms after the commencement of that Part and that Part is taken to remain in effect in respect of that exemption while the exemption remains in force.
- (2) If –
 - (a) a person made an application to the Minister, or Director, under Part 7 of this Act as in force immediately before the commencement of Part 3 of the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2015*; and
 - (b) the Minister or Director has not, before the commencement of Part 3 of that Act, made a decision in relation to the application –

the application is taken never to have been made and any fee paid in respect of the application must be refunded to the person who made the application.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

s. 88E

Part 9 – Miscellaneous

88E. Transitional provisions (2023 amendments)

The amendments to section 79 effected by section 6 of the *Justice Miscellaneous (Royal Commission Amendments) Act 2023* apply in respect of proceedings for an offence against sections 72, 72A or 73 –

- (a) whether or not that offence was committed before or after the commencement of that Act; and
- (b) whether or not a limitation period previously applying to the offence has expired before the commencement of that Act.

89. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the Department responsible to the Minister for Justice in relation to the administration of this Act is the Department of Justice.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 1

SCHEDULE 1 –

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 2

SCHEDULE 2 – REPEALS

Section 87

Classification of Publications Act 1984

Classification of Publications Amendment Act 1988

Classification of Publications Amendment Act 1990

Classification of Publications Amendment Act 1993

Classification of Publications Amendment Act (No. 2) 1993

Classification of Publications Amendment Act (No. 3) 1993

Films Act 1971

Films Amendment Act 1993

Films Amendment Act (No. 2) 1993

**SCHEDULE 3 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 88

1. Interpretation

In this Schedule –

commencement day means the day
proclaimed under section 2;

former Act means the *Classification of
Publications Act 1984*;

Ordinance means the *Classification of
Publications Ordinance 1983* of the
Australian Capital Territory.

2. Prescribed fee

Until a fee is prescribed for the purposes of
section 41(2), the fee for an application to the
Tasmanian Board under that section is \$5.

3. Continuation of Tasmanian Board

- (1) A person who, immediately before the
commencement day, was a member of the
Tasmanian Board under the former Act is taken
to have been appointed as a member of the
Board under this Act and that person holds that
office subject to this Act for the remainder of the

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

term for which the person was appointed under the former Act.

- (2) The person who, immediately before the commencement day, was the chairman of the Tasmanian Board under the former Act is taken to have been appointed as Chairperson of the Board under this Act.
- (3) The person who, immediately before the commencement day, was deputy chairman of the Tasmanian Board under the former Act is taken to have been appointed as Deputy Chairperson of the Board under this Act.

4. Registrar

The person who, immediately before the commencement day, was the Registrar of the Tasmanian Board under the former Act is taken to have been appointed as Registrar of the Board under this Act.

5. Publications

- (1) A publication that, immediately before the commencement day, was classified “unrestricted publication”, “category 1 restricted publication”, “category 2 restricted publication” or “prohibited publication” is taken to have been classified “unrestricted publication”, “category 1 restricted publication”, “category 2 restricted publication” or “prohibited publication” respectively under this Act.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

- (2) An application or referral made under section 12 of the former Act and not determined immediately before the commencement day is taken to be an application or referral made under section 8 of this Act.
- (3) An application made under section 15 of the former Act and not determined immediately before the commencement day is taken to be an application made under section 11 of this Act.

6. Computer Games

- (1) A computer game that, immediately before the commencement day, was classified “G”, “G (8+)”, “M (15+)” or “MA (15+)” under the *Ordinance* is taken to have been classified “G”, “G (8+)”, “M (15+)” or “MA (15+)” respectively under the Commonwealth Act.
- (2) A computer game that has been refused or is taken to have been refused classification under the *Ordinance* is taken to have been classified “RC” under the Commonwealth Act.
- (3) Nothing in this Act, other than section 65, applies to or in relation to a computer game published before the commencement day unless the computer game has been classified or refused classification under the *Ordinance*.
- (4) Advertising matter, in relation to a computer game, which has been approved or refused approval under the *Ordinance* before the commencement day is taken to have been

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

approved or refused approval respectively under the Commonwealth Act.

7. Films

- (1) A film that, immediately before the commencement day, was classified “G”, “PG”, “M”, “MA” or “R” under the former Act is taken to have been classified “G”, “PG”, “M”, “MA” or “R” respectively under the Commonwealth Act.
- (2) A film that, immediately before the commencement day, was classified “G”, “PG”, “M”, “MA” or “R” under the *Films Act 1971* is taken to have been classified “G”, “PG”, “M”, “MA” or “R” respectively under the Commonwealth Act.
- (3) A film that has been refused classification under the *Ordinance* is taken to have been classified “RC” under the Commonwealth Act.
- (4) A film that, immediately before the commencement day, was classified “X” under the *Ordinance* is taken to have been classified “X” under the Commonwealth Act.
- (5) An application made under section 26A of the former Act and not determined immediately before the commencement day is taken to be an application made under section 41 of this Act.
- (6) An order of the Minister made under section 26B (1) or (6) (b) of the former Act and in force

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

immediately before the commencement day is taken to be an order of the Minister made under section 44(1) or (6)(b) of this Act and is enforceable accordingly.

- (7) An application made under the former Act or *Films Act 1971* for the classification or review of the classification of a film or for the review of a decision and not determined immediately before the commencement day is taken to have been made under the Commonwealth Act.
- (8) Advertising matter, in relation to a film, which has been approved or refused approval under the *Films Act 1971* is taken to have been approved or refused approval respectively under the Commonwealth Act.
- (9) An application made under section 14A of the *Films Act 1971* for an advertising exemption and not determined immediately before the commencement day is taken to be an application for a certificate of exemption under section 32 of the Commonwealth Act.
- (10) A certificate of advertising exemption issued under section 14C of the *Films Act 1971* and in force immediately before the commencement day is taken to be a certificate of exemption granted under section 33 of the Commonwealth Act.

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

NOTES

The foregoing text of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 20 April 2023 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i>	No. 105 of 1995	1.1.1996
<i>Search Warrants (Consequential Amendments) Act 1997</i>	No. 35 of 1997	1.6.1999
<i>Statutory Holidays (Consequential Amendments) Act 2000</i>	No. 82 of 2000	13.12.2000
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001</i>	No. 118 of 2001	22.3.2002
<i>Police Service (Consequential Amendments) Act 2003</i>	No. 76 of 2003	1.1.2004
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2005</i>	No. 6 of 2005	6.5.2005
<i>Criminal Code Amendment (Child Exploitation) Act 2005</i>	No. 29 of 2005	26.5.2005 1.8.2005
<i>Justice and Related Legislation (Further Miscellaneous Amendments) Act 2006</i>	No. 43 of 2006	18.12.2006
<i>Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2008</i>	No. 38 of 2008	22.10.2008
<i>Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2012</i>	No. 43 of 2012	23.7.2009 1.1.2013

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

Act	Number and year	Date of commencement
<i>Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2015</i>	No. 5 of 2015	15.5.2015
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2018</i>	No. 29 of 2018	11.9.2015 10.12.2018
<i>Justice Miscellaneous (Royal Commission Amendments) Act 2023</i>	No. 2 of 2023	20.4.2023

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 82 of 2000, Sched. 1, No. 118 of 2001, s. 4, No. 76 of 2003, Sched. 1, No. 6 of 2005, s. 7, No. 29 of 2005, s. 6, No. 38 of 2008, s. 4, No. 43 of 2012, s. 4 and No. 5 of 2015, s. 12
Section 3A	Inserted by No. 118 of 2001, s. 5 Amended by No. 5 of 2015, s. 13
Section 4A	Inserted by No. 38 of 2008, s. 5
Division 1 of Part 2	Repealed by No. 118 of 2001, s. 6
Section 5	Repealed by No. 118 of 2001, s. 6
Section 6	Amended by No. 86 of 2000, Sched. 1 Repealed by No. 118 of 2001, s. 6
Division 2 of Part 2	Repealed by No. 118 of 2001, s. 6
Section 7	Repealed by No. 118 of 2001, s. 6
Section 8	Repealed by No. 118 of 2001, s. 6
Section 9	Repealed by No. 118 of 2001, s. 6
Section 10	Repealed by No. 118 of 2001, s. 6
Section 11	Repealed by No. 118 of 2001, s. 6
Section 12	Repealed by No. 118 of 2001, s. 6
Section 13	Repealed by No. 118 of 2001, s. 6
Section 14	Amended by No. 118 of 2001, s. 7, No. 43 of 2012, s. 5 and No. 5 of 2015, s. 4
Section 15	Substituted by No. 118 of 2001, s. 8 Amended by No. 43 of 2012, s. 6 and No. 5 of 2015, s. 5
Section 16	Amended by No. 118 of 2001, s. 9 and No. 43 of 2012, s. 7
Section 16A	Inserted by No. 118 of 2001, s. 10
Section 16B	Inserted by No. 118 of 2001, s. 10
Section 17	Amended by No. 118 of 2001, s. 11 and No. 43 of 2012, s. 8
Section 18	Amended by No. 118 of 2001, s. 12

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

Provision affected	How affected
Section 19	Amended by No. 118 of 2001, s. 13 and No. 5 of 2015, s. 6
Section 20	Substituted by No. 38 of 2008, s. 6
	Amended by No. 5 of 2015, s. 17
Section 22	Amended by No. 6 of 2005, s. 8
Section 23	Amended by No. 6 of 2005, s. 9
Section 24	Amended by No. 6 of 2005, s. 10
Section 25	Amended by No. 6 of 2005, s. 11
Section 26	Amended by No. 6 of 2005, s. 12
Section 27	Amended by No. 6 of 2005, s. 13
Section 28	Amended by No. 6 of 2005, s. 14
Section 29	Amended by No. 6 of 2005, s. 15
Section 30	Amended by No. 6 of 2005, s. 16
Section 31	Amended by No. 6 of 2005, s. 17
Section 32	Amended by No. 6 of 2005, s. 18
Section 33	Amended by No. 6 of 2005, s. 19
	Substituted by No. 38 of 2008, s. 7
	Amended by No. 5 of 2015, s. 18
Section 35	Amended by No. 118 of 2001, s. 14 and No. 5 of 2015, s. 7
Section 36	Amended by No. 6 of 2005, s. 20
Section 37	Amended by No. 6 of 2005, s. 21 and No. 43 of 2012, s. 9
Section 38	Amended by No. 6 of 2005, s. 22
Section 39	Amended by No. 6 of 2005, s. 23
Section 41	Amended by No. 118 of 2001, s. 15
Section 41A	Inserted by No. 118 of 2001, s. 16
Section 42	Amended by No. 118 of 2001, Sched. 1
Section 43	Amended by No. 118 of 2001, Sched. 1 and No. 6 of 2005, s. 24
Section 44	Amended by No. 118 of 2001, Sched. 1
Section 46	Amended by No. 118 of 2001, s. 17
Section 47	Substituted by No. 118 of 2001, s. 18
Section 49	Substituted by No. 5 of 2015, s. 19
Section 51	Amended by No. 118 of 2001, s. 19 and No. 5 of 2015, s. 8
Section 53	Amended by No. 6 of 2005, s. 25 and No. 43 of 2012, s. 10
Section 54	Amended by No. 43 of 2012, s. 11
Section 54A	Inserted by No. 43 of 2012, s. 12
Section 55	Amended by No. 6 of 2005, s. 26
Section 56	Amended by No. 118 of 2001, s. 20
Section 57	Amended by No. 118 of 2001, s. 21, No. 6 of 2005, s. 27 and No. 38 of 2008, s. 19
Section 58	Amended by No. 6 of 2005, s. 28 and No. 38 of 2008, s. 20
Section 59	Amended by No. 6 of 2005, s. 29 and No. 38 of 2008, s. 21
Section 59A	Inserted by No. 38 of 2008, s. 22
Section 60	Amended by No. 6 of 2005, s. 30, No. 38 of 2008, s. 23 and No. 43 of 2012, s. 13
Section 60A	Inserted by No. 38 of 2008, s. 24
Section 61	Amended by No. 118 of 2001, s. 22 and No. 5 of 2015, s. 9
Section 62	Amended by No. 118 of 2001, s. 23

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

Provision affected	How affected
Section 63	Amended by No. 118 of 2001, s. 24, No. 43 of 2006, s. 10 and No. 5 of 2015, s. 10
Section 64	Amended by No. 118 of 2001, s. 25
Section 64A	Inserted by No. 118 of 2001, s. 26
Section 65	Amended by No. 118 of 2001, s. 27
Section 66	Amended by No. 118 of 2001, s. 28 and No. 38 of 2008, s. 25
Section 66A	Inserted by No. 118 of 2001, s. 29
Section 66B	Inserted by No. 118 of 2001, s. 29 Amended by No. 38 of 2008, s. 8
Part 7	Repealed by No. 5 of 2015, s. 14
Section 67AA	Inserted by No. 38 of 2008, s. 10 Repealed by No. 5 of 2015, s. 14
Section 67	Amended by No. 118 of 2001, s. 30, No. 38 of 2008, s. 11 Repealed by No. 5 of 2015, s. 14
Section 68	Amended by No. 118 of 2001, s. 31 Substituted by No. 38 of 2008, s. 12 Repealed by No. 5 of 2015, s. 14
Section 69	Amended by No. 118 of 2001, s. 32 Subsection (5) substituted by No. 118 of 2001, s. 32 Amended by No. 118 of 2001, s. 32, No. 38 of 2008, s. 13 Repealed by No. 5 of 2015, s. 14
Section 70	Amended by No. 118 of 2001, s. 33, No. 38 of 2008, s. 14 Subsection (2A) inserted by No. 38 of 2008, s. 14 Subsection (2B) inserted by No. 38 of 2008, s. 14 Repealed by No. 5 of 2015, s. 14
Section 71	Amended by No. 29 of 2005, s. 8
Section 72	Amended by No. 29 of 2005, s. 9
Section 72A	Inserted by No. 29 of 2005, s. 10
Section 73	Substituted by No. 29 of 2005, s. 11
Section 73A	Inserted by No. 29 of 2005, s. 11
Section 74	Amended by No. 29 of 2005, s. 12
Section 74A	Inserted by No. 29 of 2005, s. 13
Section 74B	Inserted by No. 29 of 2005, s. 13
Section 77	Subsection (1) omitted by No. 35 of 1997, Sched. 1 Subsection (2) omitted by No. 35 of 1997, Sched. 1 Subsection (3) omitted by No. 35 of 1997, Sched. 1 Amended by No. 35 of 1997, Sched. 1 Substituted by No. 29 of 2005, s. 14 Amended by No. 29 of 2018, s. 15
Section 77A	Inserted by No. 118 of 2001, s. 34 Amended by No. 6 of 2005, s. 31
Section 78	Amended by No. 118 of 2001, s. 35 and No. 38 of 2008, s. 15
Section 79	Amended by No. 29 of 2005, s. 15 and No. 2 of 2023, s. 6
Section 80	Amended by No. 43 of 2012, s. 14
Section 81	Amended by No. 6 of 2005, s. 5 and No. 29 of 2005, s. 16

*Classification (Publications, Films and Computer Games)
Enforcement Act 1995
Act No. 105 of 1995*

sch. 3

Provision affected	How affected
Section 82	Repealed by No. 43 of 2012, s. 15
Section 84	Repealed by No. 118 of 2001, s. 36
Section 88A	Inserted by No. 118 of 2001, s. 37
Section 88B	Inserted by No. 6 of 2005, s. 32
Section 88C	Inserted by No. 38 of 2008, s. 16
Section 88D	Inserted by No. 5 of 2015, s. 15
Section 88E	Inserted by No. 2 of 2023, s. 7
Schedule 1	Amended by No. 86 of 2000, Sched. 1 Repealed by No. 118 of 2001, s. 38
