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ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

**CLASSIFICATION OF PUBLICATIONS, FILMS AND  
COMPUTER GAMES AMENDMENT BILL 2016**

**SERIAL NO. 2**

**EXPLANATORY STATEMENT**

**GENERAL OUTLINE**

The Classification of Publications, Films and Computer Game Amendment Bill 2016 makes minor consequential amendments to the *Classification of Publications, Films and Computer Games Act* to ensure that it remains consistent with and supports the *Commonwealth Classification (Publications, Films and Computer Games) Act 1995* (the Commonwealth Act) as recently amended by the *Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Act 2014* (the Amendment Act).

**NOTES ON CLAUSES**

**Clause 1. Short title**

This is a formal clause which provides for the citation of the Bill. The Bill when passed may be cited as the *Classification of Publications, Films and Computer Games Amendment Act 2016*.

**Clause 2. Act Amended**

This is a formal clause that provides that the Act amends the *Classification of Publications, Films and Computer Games Act*.

**Clause 3. Section 3 amended**

This clause inserts a new definition of 'subject to a conditional cultural exemption' into section 3 of the *Classification of Publications, Films and Computer Games Act*. The clause imports the definition inserted into the Commonwealth Act by the Amendment Act.

This clause also inserts a note to section 3 to direct the reader to the *Interpretation Act* that may contain other relevant definitions. This is a new Parliamentary Counsel drafting practice.

#### **Clause 4. Section 4 amended**

This clause exempts relevant showings of material subject to a conditional cultural exemption from the operation of the Act. This is consistent with the Commonwealth Act's new exemption provisions, specifically the introduction of conditional cultural exemptions.

#### **Clause 5. Section 35 amended**

Section 35 of the *Classification of Publications, Films and Computer Games Act* regulates the exhibition of classified and unclassified films in a public place.

This clause amends section 35 so that the exhibition of a classified film in a public place that has been modified in accordance with new sections 20A or 21(3) of the Commonwealth Act does not contravene this section.

#### **Clause 6. Section 45 amended**

Section 45 of the *Classification of Publications, Films and Computer Games Act* regulates the sale of classified and unclassified films.

This clause amends section 45 to provide that the sale of a classified film that has been modified in accordance with new sections 20A or 21(3) of the Commonwealth Act does not contravene this section.

#### **Clause 7. Section 47 amended**

Section 47 of the *Classification of Publications, Films and Computer Games Act* regulates the display, delivery or publication of publications according to their classification.

This clause inserts a new paragraph (d) in section 47 to provide a period of grace where the Board revokes a classification produced by a classification tool under section 22CH(1) of the Commonwealth Act and classifies the relevant material under section 22CH(4) of the Commonwealth Act.

**Clause 8. Section 55 amended**

Section 55 of the *Classification of Publications, Films and Computer Games Act* regulates the sale or delivery of publications classified Category 1 restricted publications.

This clause inserts a new paragraph (d) in section 55(4) to provide a period of grace where the Board revokes a classification produced by a classification tool under section 22CH(1) of the Commonwealth Act and classifies the relevant material under section 22CH(4) of the Commonwealth.

**Clause 9. Section 56 amended**

Section 56 of the *Classification of Publications, Films and Computer Games Act* regulates the sale or delivery of publications classified Category 2 restricted publications.

This clause inserts a new paragraph (d) in section 56(5) to provide a period of grace where the Board revokes a classification produced by a classification tool under section 22CH(1) of the Commonwealth Act and classifies the relevant material under section 22CH(4) of the Commonwealth.

**Clause 10. Section 59 amended**

Section 59 of the *Classification of Publications, Films and Computer Games Act* deals with misleading or deceptive markings.

This clause inserts a new paragraph (d) in section 59(3) to provide a period of grace where the Board revokes a classification produced by a classification tool under section 22CH(1) of the Commonwealth Act and classifies the relevant material under section 22CH(4) of the Commonwealth.

**Clause 11. Section 63 amended**

Section 63 of the *Classification of Publications, Films and Computer Games Act* regulates the sale and demonstration of unclassified computer games.

This clause amends section 63 to provide that the exhibition or sale of a classified computer game modified in accordance with new sections 20A and 21(3) of the Commonwealth Act does not contravene this section.

**Clause 12. Section 69 amended**

Section 69 of the *Classification of Publications, Films and Computer Games Act* regulates the display of classification markings and consumer advice on computer games.

This clause inserts a new paragraph (d) in section 69(d) to provide a period of grace where the Board revokes a classification produced by a classification tool under section 22CH(1) of the Commonwealth Act and classifies the relevant material under section 22CH(4) of the Commonwealth Act.

**Clause 13. Section 85 amended**

Section 69 of the *Classification of Publications, Films and Computer Games Act* regulates the display of classification markings and consumer advice on computer games.

This clause inserts a new paragraph (d) in section 69(d) to provide a period of grace where the Board revokes a classification produced by a classification tool under section 22CH(1) of the Commonwealth Act and classifies the relevant material under section 22CH(4) of the Commonwealth.

**Clause 14. Section 90 amended**

Section 90 of the *Classification of Publications, Films and Computer Games Act* allows for the National Director to require a publisher of a submittable publication in the Northern Territory to submit it for classification.

This clause amends section 90(1) to make it clear that the call-in powers of the National Director only apply if a submittable publication that is not subject to a conditional cultural exemption in relation to the publication, where the publication is being published in the Northern Territory.

**Clause 15. Section 91 amended**

Section 91 of the *Classification of Publications, Films and Computer Games Act* allows for the National Director to require a publisher of a film in the Northern Territory to submit it for classification.

This clause amends section 91(1) to make it clear that the call-in powers of the National Director only apply if a film is not subject to a conditional cultural exemption in relation to the relevant material, where the material is being published in the Northern Territory.

**Clause 16. Section 92 amended**

Section 92 of the *Classification of Publications, Films and Computer Games Act* allows for the National Director to require a publisher of a computer game in the Northern Territory to submit it for classification.

This clause amends section 92(1A) to make it clear that the call-in powers of the National Director only apply if a computer game is not subject to a conditional cultural exemption in relation to the relevant material, where the material is being published in the Northern Territory.

**Clause 17. Part 10 repealed**

Part 10 sets out the current exemption process for films, publications, computer games, advertisements and approved organisations.

This clause repeals part 10 of the *Classification of Publications, Films and Computer Games Act*. Following the commencement of the conditional cultural exemption process under the Commonwealth Act, the exemption process under the *Classification of Publications, Films and Computer Games Act* is not required.

**Clause 18. Part 19 inserted**

This clause provides for transitional matters.

New section 130 provides that if an exemption under Part 10 of the *Classification of Publications, Films and Computer Games Act* was in force immediately before Part 10 is repealed by this clause, then the exemption remains in force according to its terms, on and from the repeal of Part 10.

New section 131 provides that if an application made under Part 10 of the *Classification of Publications, Films and Computer Games Act* has not been decided before the repeal of Part 10 by this clause, then the application is taken never to have been made.

**Clause 19.      Expiry of Act**

This is a standard clause which provides that the *Classification of Publications, Films and Computer Games Amendment Act 2016* expires the day after it commences. As this is an amending Act, there is no need to retain the Act on the statute book, once all the amendments to the *Classification of Publications, Films and Computer Games Act* have been effected.