

1989-90

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Stevenson)

Publications Control (Amendment) Bill (No. 2) 1990

A BILL

FOR

An Act to amend the *Publications Control Act 1989*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Publications Control (Amendment) Act (No. 2) 1990*.

5 **Principal Act**

2. In this Act, "Principal Act" means the *Publications Control Act 1989*.¹

Interpretation

3. Section 3 of the Principal Act is amended –

- 10 (a) by omitting "paragraph (b)" from the definition of "objectionable child publication" and substituting "subparagraph (b) (iii)";
- (b) by omitting "and distribute;" from the definition of "publish" and substituting
", distribute and transmit through the use of a facsimile machine, a computer
or other electronic means;"; and
- 15 (c) by omitting the definition of "objectionable publication" and substituting
the following definition:
"objectionable publication" means –
(a) an 'X' film; or

- (b) an unclassified publication, or unapproved advertising matter in relation to a film, that –
 - (i) has been refused classification or approval, as the case requires; 5
 - (ii) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to a reasonable adult; 10
 - (iii) depicts in pictorial form a child (whether engaged in sexual activity or otherwise) who is, or is apparently, under the age of 16 years in a manner that is likely to cause offence to a reasonable adult; or
 - (iv) promotes, incites or instructs in matters of crime or violence;". 15

Insertion

4. After section 8 of the Principal Act the following section is inserted:

Electronic transmission of objectionable publications

"8A. A person shall not operate a computer or a facsimile machine so as to transmit to another computer or facsimile machine an electronic message so that, when it is received, the other computer or facsimile machine produces visual images that form an objectionable publication, a copy of an 'X' film or a copy of a part of an 'X' film.

- Penalty: (a) in the case of an objectionable child publication – \$2,000 or imprisonment for 12 months, or both; 25
- (b) in any other case – \$1,000 or imprisonment for 6 months, or both.

"(2) For the purposes of subsection (1), visual images are to be taken to form a copy of an 'X' film or of a part of an 'X' film if they form a reproduction of that film or of a part of that film (as the case requires)."

Sale etc. of films

5. Section 12 of the Principal Act is amended –

- (a) by omitting "video tape or video disc" (wherever occurring) and substituting "film"; 35
- (b) by omitting from paragraphs (c), (d) and (e) of the penalty at the foot of subsection (1) "a" and substituting "an"; and
- (c) by omitting from paragraph (e) of the penalty at the foot of subsection (1) "\$800" and substituting "\$1,000 or imprisonment for 6 months, or both".

Objectionable publications – general character

6. Section 15 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

"(2) Subsection (1) does not apply to –

- (a) an 'X' film; 45
- (b) a publication that has been refused classification; or
- (c) advertising matter in relation to a film, being advertising that has been refused approval."

Exemption of literary etc. works

7. Section 16 of the Principal Act is amended –

- (a) by inserting before paragraph (2) (a) the following paragraph: 50
"(aa) an 'X' film;"; and
- (b) by omitting from paragraph (2) (c) "paragraph (b) or (c)" and substituting "subparagraph (b) (iii) or (iv)".

Subsequent classification

8. Section 17 of the Principal Act is amended by inserting "a film," after "than".

Publishing certain classified publication

9. Section 18 of the Principal Act is amended by omitting from paragraph (b) "or an 'X' film".

Conditions of publication of certain classified publications

10. Section 19 of the Principal Act is amended –

- (a) by omitting from subsection (1) "a publication that is classified as";
- (b) by omitting from subsection (3) "an 'X' film or a publication that is classified as";
- (c) by adding at the end of paragraph 3(d) "and"; and
- (d) by omitting paragraphs 3(f) and (g) and subsection (4).

Depositing certain classified publications in public places

11. Section 20 of the Principal Act is amended by omitting from paragraph (b) "or an 'X'".

Depositing certain classified publications on private premises

12. Section 21 of the Principal Act is amended by omitting from paragraph (b) "or an 'X'".

Video tapes and discs – trailers

13. Section 22 of the Principal Act is amended –

- (a) by omitting "classified video tape or video disc" and substituting "video tape, or a video disc, classified otherwise than as an 'X' film";
- (b) by adding at the end of paragraph (c) "or";
- (c) by omitting from paragraph (d) "or" (last occurring); and
- (d) by omitting paragraph (e).

Video tapes and discs – false advertisement of classification

14. Section 23 of the Principal Act is amended by adding at the end the following subsection:

"(2) Subsection (1) does not apply to advertising matter in relation to a video tape or a video disc that is classified as an 'X' film."

Advertising matter

15. Section 27 of the Principal Act is amended by omitting subsections (3) and (4).

Restricted publications areas

16. Section 28 of the Principal Act is amended by omitting from subsection (3) "or an 'X' film,".

NOTE

1. Ordinance No. 47 of 1989 as amended by No. 21, 1989; Act No. 15, 1990.