

1990

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

PUBLICATIONS CONTROL (AMENDMENT) BILL 1990 (NO. 3)

EXPLANATORY MEMORANDUM

**(Circulated by authority of the
Attorney-General, Mr Bernard Collaery)**

12505/90 Cat. No. 90 4477 3

EXPLANATORY MEMORANDUM

AUSTRALIAN CAPITAL TERRITORY

PUBLICATIONS CONTROL (AMENDMENT) ACT 1990 (NO. 3)

ACT NO. OF 1990

The Publications Control Act 1989 (the Principal Act) regulates the distribution and availability of classified publications (including films and videos).

The Publications Control (Amendment) Act 1990 (No. 3) (the Amendment Act) amends the Principal Act to tighten up certain regulatory measures. The measures are aimed at limiting the accessibility of 'X' videos and Category 2 publications. The amendments are a response to concern about access of these materials to minors and to other members of the public. Details of the Amendment Act are as follows.

Section 1 provides that the Amendment Act may be cited as the Publications Control (Amendment) Act 1990.

Section 2 provides that sections 1 and 2 come into operation on notification in the Gazette and the remaining provisions will come into operation on 1 July 1990.

Section 3 provides that the Principal Act is the Publications Control Act 1989.

Section 4 makes a number of amendments to section 19 of the Principal Act.

- (a) This paragraph amends paragraphs 19(1)(a), 19(2)(a) and 19(3)(a) to insert "without reasonable excuse". This has been inserted to enable an accused person to raise a defence as is possible in the new section 19A.

- (b) This paragraph inserts further conditions in subsection 19(3).

Paragraph 19(3)(f) provides that an 'X' film shall not be published otherwise than in a prescribed area. This will enable the sale, hire etc of 'X' films to be restricted to specified areas of Canberra, for example the light industrial areas.

Paragraph 19(3)(g) provides that an 'X' film shall not be published to a person without proof of age or if the publisher otherwise has reasonable grounds for believing the person is 18 years of age. This is aimed at preventing minors from purchasing this material.

New paragraph 19(4) defines birth certificate, driver's licence and passport for the purposes of subparagraph 3(g)(i).

Section 5 inserts a new offence provision in the Principal Act. The offence is that a person shall not assist or encourage a minor to obtain an 'X' film. New subsection 19A(2) provides that no offence has been committed in certain circumstances, namely if the person is the parent or guardian or if there are reasonable grounds for believing the minor is an adult.

Section 6 amends section 22 of the Principal Act. This amendment is to rectify an anomaly in the Principal Act. The amendment specifies that any video tape or video disc can only include a trailer advertising a film that is in the same classification as the video tape or video disc or a lower classification. However the provision does specify that an 'X' film can only show a trailer advertising another 'X' film.

Section 7 amends section 27 to specify that sexually explicitly advertising matter in relation to an 'X' film shall not be sent unless it is in a package within a package - both of which are made of plain opaque material. The inside package must contain a warning that the package contains sexually explicit advertising

matter. Sexually explicit advertising matter is defined in subsection 27(4) as advertising matter that explicitly depicts or describes sexual acts or fetishes. This provision is designed to prevent persons receiving objectionable material in the mail without warning.

Section 8 provides there will be a transitional two month period from 1 July 1990 to enable relevant premises outside of the prescribed area to arrange for disposal of their current stocks of 'X' films by way of wholesale without committing an offence.

ISSUED BY THE AUTHORITY
OF THE ATTORNEY-GENERAL

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