

1996-

**AUSTRALIAN CAPITAL TERRITORY**

**LEGISLATIVE ASSEMBLY**

**CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES)  
(ENFORCEMENT) (AMENDMENT) BILL (NO.2) 1996**

**Government Amendments**

**Explanatory Statement**

**Circulated by the authority of the Attorney General**

**Gary Humphries MLA**

## OUTLINE

The amendments to the Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Bill (No. 2) 1996 (the Bill), which are explained in this statement:

- require that a person be licensed before he or she may copy X films;
- prohibit the copying of films which have been refused classification or are unclassified (other than for classification or law enforcement purposes); and
- enable payment of a licence fee, in quarterly instalments, where a licence is renewed.

The Bill, as introduced into the Legislative Assembly on 26 September 1996, amends the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (the Act), by inserting provisions requiring the licensing of the sale, but not the copying, of X films. The Bill makes no provision for payment of a licence fee by instalment.

### Details of amendments

#### Amendment 1

*Clause 5* of the Bill amends section 20 of the Act. The first Government amendment is to the effect that the Bill amends section 20 of the Act to prohibit the copying of an X film except in accordance with a licence.

#### Amendment 2

This amendment inserts a proposed *new clause 5A* in the Bill. Proposed *clause 5A* amends section 24 of the Act. Presently subsection 24(2) makes it an offence for a person to copy (other than for law enforcement or classification purposes) an RC or unclassified film, with the intention of selling or exhibiting the film. *Clause 5A* amends section 24 to the effect that irrespective of a person's intention with respect to selling or exhibiting such films it will be an offence to copy them (other than for law enforcement or classification purposes). This amendment is intended to prevent the copying of such films by a duplicator who, himself or herself, may not intend to sell or exhibit the films but who, having been contracted to duplicate the films for another person, provides the duplicated films to that other person who sells or exhibits the films.

### **Amendment 3**

*Clause 6* of the Bill inserts Part VI - X Films in the Act. Proposed new section 54C sets out the requirements to apply for a licence to sell X films. This amendment changes proposed new section 54C to the effect that it also deals with requirements for a licence to copy X films or both sell and copy X films.

### **Amendment 4**

Proposed new subsection 54E(1) of the Act, inserted by *clause 6* of the Bill, empowers the Registrar of X film licences to grant or refuse a licence to sell X films. This amendment changes proposed new subsection 54E(1) to empower the Registrar to also grant or refuse a licence to copy X films.

### **Amendment 5**

Proposed new section 54F of the Act, inserted by *clause 6* of the Bill, sets out the details which must be specified in a licence. This amendment adds a new paragraph 54F(ab) requiring the license to specify whether it granted for the sale, or copying, or both, of X films.

### **Amendment 6**

Proposed new section 54G of the Act, inserted by *clause 6* of the Bill, deals with the term of a licence. This amendment changes the proposed section so that instead of a licence staying in force for 12 months, a licence remains in force for a maximum period of 12 months. The reason for this change is that it is intended that when a licence is granted to new applicants the period for which the licence is issued will be such period as will bring the licence into line with one of the due dates for payment, that is, 1 February, May, August or November. For example, a new licence issued from a date in April would be issued until the following 31 January - 10 months. Where a licence is renewed, under the terms of the Bill, the quarterly fees will be payable on the due dates for payment.

### **Amendment 7**

*Clause 6* of the Bill is amended to the effect that it inserts a new section 54HA in the Bill, dealing with payment of a licence fee by instalments. The effect of this provision is that where a licence is renewed, the fee may be paid in quarterly instalments. Failure to pay by the due date will result in suspension of the licence and where an instalment is not paid within 30 days of the due date the licence will be cancelled.

No appeal against a cancellation is provided for. However, it will be open to the former licensee to apply for the issue of a new licence, pursuant to the

Act. If a new licence is granted, the licensee will be liable to pay the fee, up front.

#### **Amendment 8**

*Clause 6* of the Bill is amended to the effect that it inserts new section 54KA, requiring that where a person licensed to sell and copy films ceases to conduct one of these activities, the licensee must notify the Registrar and submit his or her licence to the Registrar. The Registrar is required to amend the licence, appropriately, and return it to the licensee.

#### **Amendment 9**

*Clause 6* of the Bill inserts new section 54L in the Act, dealing with cancellation of a licence. This amendment changes clause 6 to the effect that a new subsection 54L(8) is inserted in the Act, enabling the Registrar to cancel a licence on the written request of the licensee. One of the reasons for which a licensee might seek such cancellation is to enable another person to apply for a licence so that that person can operate the licensee's business.

#### **Amendment 10**

*Clause 6* of the Bill inserts new section 54M in the Act, dealing with surrender of a licence. This amendment modifies proposed new subsection 54M(1) to reflect the fact that a licence will now be required to copy X films, as well as to sell X films.

#### **Amendment 11**

*Clause 12* is a savings provision which carries over the operation of licences issued before the commencement date of the new licensing provisions, so that a licence issued before that date continues in force for duration of the licence period.

The purpose of this amendment is to make it clear that where a licence continues in force by virtue of *clause 12*, the licence will be taken to have been granted under new section 54E. Consequently, the renewal of the licence is subject to the provisions of new section 54HA, enabling the payment of the licence fee in instalments.

A further effect of the amendment is that where a person whose licence to sell X films is saved, the person may renew his or her licence to permit him or her to copy, as well as to sell, X films, and will be entitled to pay the relevant licence fee in instalments.

Proposed *subclause 12(3)* is to the effect that for the duration of the period of a saved licence (which only licenses the sale of X films), the licensee will not commit an offence if he or she copies X films. This recognises that some current licensees are also already in the business of copying X films, an activity which does not, presently, require a licence.