

**1994**

**AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

**PUBLICATIONS CONTROL (AMENDMENT) BILL 1994**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of  
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Attorney General**

**AUSTRALIAN CAPITAL TERRITORY**  
**PUBLICATIONS CONTROL (AMENDMENT) BILL 1994**

**OUTLINE**

This Bill amends the *Publications Control Act 1989* to recognise the Commonwealth's new computer games classification scheme and to provide for the control of the display, hire, sale and demonstration of such games.

The scheme will cover material that is of an 'interactive computer game' type. The issue for classification purposes will be whether an offensive or censorable image is produced. Computer games or images offered for sale, hire or use or display in a public place would be subject to classification against an agreed set of guidelines.

This Bill introduces regulatory measures to restrict the display, hire, sale and demonstration of computer games in a manner similar to the requirements that apply to film and video.

**Financial Considerations:** There are no financial considerations involved.

**FORMAL CLAUSES**

**Clauses 1, 2 and 3** are formal requirements. They refer to the short title of the Bill, establish the meaning of the term 'Principal Act' as the *Publications Control Act 1989*, and establish the commencement day as the day on which the Act is notified in the Gazette.

**AMENDMENTS**

Clause 4 is definitional.

It includes amendments to definitions in the Principal Act to include 'computer game' in many of the existing definitions.

The clause also creates a number of new definitions relevant only to computer games. Among those are the classification categories relating to computer games. They are 'G', 'G(8+)', 'M(15+)', and 'MA(15+)'.

'Computer generated image' is defined to mean electronically recorded data capable, by means of an electronic device, of being produced on a television screen, liquid crystal display or similar medium as an image (including an image in the form of text).

'Computer program' means a set of statements or instructions to be used directly or indirectly in a computer to bring about a certain result.

Another important definition is that of 'demonstrate'. This is a new concept which has been introduced in relation to computer games only and includes exhibit, display, screen, play or make available for playing. The definition,

among other things, has been included to pick up those situations where computer games are displayed or made available for playing in public places.

**Clause 5** is an interpretation section. It provides for the meaning of 'computer game' to mean a computer program, with or without associated data, capable of generating a display on a television screen, liquid crystal display or similar medium or a computer generated image, intended for the entertainment of the user.

**Clause 6** amends the Principal Act to provide that nothing in the Act applies to or in relation to a computer game published before the date of commencement of the Bill unless the game has been classified or refused classification.

**Clauses 7, 8, 9, 10, 11, 12 and 13** amend sections 5, 6, 7, 8, 9, 10 and 12 of the Principal Act by increasing the penalty amounts in line with the principles of the Penalties Review exercise.

**Clause 14** inserts a new section into the Principal Act to create offences for selling, letting on hire, distributing or demonstrating a computer game that has not been classified or that has been refused classification. The level of penalty that can be imposed varies depending on the level of subsequent classification ascribed to the computer game.

Clause 14 also provides for the Minister to determine a computer game or class of computer games to be exempt from the requirements created in the first part of clause 6.

**Clause 15** amends section 13 of the Principal Act to provide that it is an offence to advertise an unclassified computer game. It also amends the penalty amount for the section.

**Clause 16** amends section 15 of the Principal Act. It is a technical amendment to include computer games in the section that provides for determining whether a publication is an objectionable publication.

**Clause 17** amends section 16 of the Principal Act to exempt a computer game from being found to be an objectionable publication if it possesses literary or artistic merit or is of a medical, legal or scientific character.

**Clause 18** amends section 17 of the Principal Act to provide that a computer game can still be found to be an objectionable publication notwithstanding that it is subsequently classified.

**Clause 19** amends section 18 of the Principal Act to increase the penalty amount.

**Clause 20** provides that a person shall not publish an 'MA(15+)' computer game otherwise than in accordance with the conditions set out in section 19AA.

**Clause 21** amends section 19 of the Principal Act to omit subsection (4) of section 19. Several definitions are removed by this clause. Those definitions have been moved to the definition clause at the start of the Bill.

**Clause 22** provides for the conditions of publication which apply to computer games with 'MA(15+)' classifications.

**Clause 23** amends section 19A of the Principal Act to increase the penalty amount.

**Clause 24** amends section 20 of the Principal Act to make it an offence to deposit or cause to be deposited an 'MA(15+)' computer game in or on a public place. It also amends the penalty amount for the section.

**Clause 25** amends section 21 of the Principal Act to make it an offence to deposit or cause to be deposited an 'MA(15+)' computer game in or on private premises without the occupier's permission. It also amends the penalty amount for the section.

**Clause 26** amends section 22 of the Principal Act to increase the penalty amount.

**Clause 27** provides that a classified computer game shall not be sold, let on hire, demonstrated for sale or hire in a public place or demonstrated in a public place if, after classification it has been modified to include a trailer which advertises a computer game of a higher classification than the game itself.

**Clause 28** amends section 23 of the Principal Act to make it an offence to publish advertising matter in relation to a classified computer game that indicates that the game is not classified or is classified differently. It also amends the penalty amount for the section.

**Clause 29** amends section 24 of the Principal Act to make it an offence to demonstrate in a public place a 'G', 'G(8+)' or 'M(15+)' computer game in a container or wrapping or casing that does not bear the determined markings.

**Clause 30** amends section 25 of the Principal Act to increase the penalty amount.

**Clause 31** amends section 26 of the Principal Act to provide that information about the classifications relating to computer games must be displayed in a conspicuous place on premises where the games are sold, let on hire, distributed or demonstrated. It also amends the penalty amount for the section.

**Clause 32** amends section 27 of the Principal Act to make it an offence to sell, let on hire, distribute or demonstrate a computer game in association with advertising matter that has been refused approval and that approved advertising matter in relation to a film shall not be published except in accordance with the conditions to which the approval is subject. It also amends the penalty amount for the section.

**Clause 33** amends section 28 of the Principal Act to increase the penalty amount.

**Clause 34** amends section 31 of the Principal Act to bring computer games within the provisions of the Principal Act dealing with enforcement mechanisms.

**Clause 35** amends section 37 of the Principal Act to provide that, in proceedings for an offence relating to computer games, a certificate signed by the Chief Censor, the Acting Chief Censor, the Deputy Chief Censor or the Acting Deputy Chief Censor is evidence of the matters stated in the certificate.

**Clause 36** amends section 38 of the Principal Act to provide that it is not an offence to publish a computer game, of a certain classification or not classified at all, to a person who has been prescribed as exempt from specified provisions of the Act.

**Clause 37** amends section 39 of the Principal Act to increase the penalty amount.