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**AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

**PUBLICATIONS CONTROL (AMENDMENT) BILL 1991**

**EXPLANATORY MEMORANDUM**

Circulated by authority  
of the  
Attorney General, Terry Connolly MLA

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## PUBLICATIONS CONTROL (AMENDMENT) BILL 1991

### OUTLINE

This is an amending Bill. It amends the *Publications Control Act 1989*, referred to in the amending Bill as the Principal Act. The Publications Control (Amendment) Bill 1991 establishes a scheme whereby certain films may be advertised before they are classified by the Chief Censor. The conditions under which this may be done are to be determined by the Commonwealth Attorney-General and published in the *Gazette*, and exemptions may be revoked if the conditions are not complied with. This Bill also creates the offence of publishing advertising matter relating to unclassified films and films which have been refused classification.

### FINANCIAL IMPLICATIONS

This Bill has no implications for revenue or expenditure.

### CLAUSE NOTES

#### Formal Clauses

**Clauses 1 and 2** are formal requirements. They refer to the short title of the Bill and the definition of the Principal Act.

**Clause 3** defines terms used in the Bill. A new, broader definition of 'advertising matter' is inserted into section 3 of the Principal Act to include all advertising used in relation to films, such as trailers screened in cinemas, posters, and handbills. 'Censorship Board' and 'Review Board' are also defined.

#### Advertising matter for unclassified films

**Clause 4** adds Division 1A, containing new sections 17A to 17H, to Part II of the Principal Act.

## Interpretation

New section 17A defines terms used in Division 1A, including 'eligible film'. An eligible film is one which complies with the conditions made by the Commonwealth Attorney-General and published in the *Gazette*. These conditions will determine which films may be considered for exemptions. The new section also provides that the Division only applies to films for public exhibition. This means that videos will not be included in the exemption scheme.

## Publishing advertising matter for unclassified films

New section 17B makes it an offence to advertise films which have not been classified, or which have been refused classification, unless a certificate of exemption has been issued. There is a defence of reasonable excuse. Sub-section (3) provides that a person who places an illegal advertisement will be committing an offence, rather than the person who actually publishes the advertisement. This means that, for example, the publisher of a newspaper will not be liable for the publication of an infringing advertisement: the person who places the advertisement will be liable.

## Exemptions

New section 17C enables the exhibitor or distributor of a film to apply to the Censorship Board for a certificate of exemption in relation to the film. The Board may require all advertising matter connected with the film to be submitted. Sub-section (3) provides that the Board will not accept an application for exemption unless the application is made under the corresponding law in each State and the Northern Territory. This provision will not come into effect until the other jurisdictions enact legislation mirroring this Bill, and it will ensure that a total of thirty applications are received in Australia each year.

New section 17D allows the Censorship Board to grant a certificate of exemption to an eligible film, provided it is satisfied that the film is not likely to be classified 'R' or 'X'.

## Quota

New section 17E limits the Censorship Board to granting 30 certificates of exemption each year, unless the Commonwealth Attorney-General consents to the granting of a greater number.

## Conditions of exemption

New section 17F provides that the granting of a certificate of exemption is subject to certain conditions which will be determined by the Commonwealth Attorney-General and published in the *Gazette*. These

conditions are likely to include such matters as markings to be displayed on advertising matter and conditions relating to the cessation of the exemption. The conditions were not included in the body of the legislation to enable the Chief Censor to modify the conditions where necessary as the scheme becomes established in all jurisdictions.

#### **Revocation**

New section 17G allows the Censorship Board to revoke a certificate of exemption at any time if the conditions in section 17F are not complied with.

#### **Appeal provisions**

New section 17H allows the distributor or exhibitor of a film to appeal to the Film and Literature Review Board against a decision of the Censorship Board, and outlines the powers of the Review Board in such cases. The Review Board may not review decisions made on the basis of the quota system, or on the basis that a film is likely to be classified 'R' or 'X' - it may only review decisions concerning whether or not the film is an 'eligible film' under section 17D(1).