

EXPLANATORY STATEMENT

ORDINANCE NO:50F 1994

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

*SEAT OF GOVERNMENT (ADMINISTRATION) ACT 1910*

CLASSIFICATION OF PUBLICATIONS (AMENDMENT)  
ORDINANCE (NO 3) 1994

The Classification of Publications Ordinance 1983 ('the Principal Ordinance') provides for the classification of films (including video cassettes) publications and computer games in the Australian Capital Territory. It is part of a censorship classification scheme agreed to by Commonwealth, State and Territory Ministers with responsibility for censorship matters.

The purpose of these amendments to the Principal Ordinance is to remove the 'X 18+' and 'R 18+' classifications for computer games.

A new scheme for classification of computer games came into operation on 11 April 1994 following amendments to the Principal Ordinance earlier in the year.

In implementing the new scheme, the Commonwealth adopted the approach that if a State or Territory wanted a particular category of classification for computer games provision would be made for the Censorship Board to classify material falling within that category. This approach is consistent with the co-operative nature of Australia's censorship laws under which Federal bodies classify material on behalf of the States and Territories and the States and Territories provide for enforcement of the classifications.

Since the Principal Ordinance was amended to allow for the classification of computer games, announcements have been made by the States and Territories about whether they will allow 'X 18+' and 'R 18+' games to be sold, hired or demonstrated in their jurisdiction. On current advice, no jurisdiction will now permit these games to be available.

Following the State and Territory decisions, this Ordinance amends the Principal Ordinance to remove these classifications. Under the amendment, material that previously fell within the 'X' and 'R' criteria will now fall within the refused classification criteria.

Although no material has to date been classified 'X 18+' or 'R 18+', the amending Ordinance also provides that should any material be so classified before the amending Ordinance comes into force, the material is to be taken to have been refused classification.

The amending Ordinance also validates the fee for review by the Film and Literature Board of Review ('the Board of Review') of decisions approving or refusing to approve the classification of a film or advertising matter in relation to a film.

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Under the Principal Ordinance an application to the Board of Review to review a decision is to be accompanied by the fee determined under the Ordinance.

The Commonwealth, States and Territories had agreed that an application fee of \$400 to review a decision under State and Territory laws would be introduced in 1985. This was to comprise a fee of \$50 levied under the legislation of each of the 8 States and Territories involved.

As far as the \$50 fee to be levied under the Principal Ordinance in respect of the A.C.T. is concerned, no record can be found of any determination having been made.

The amending Ordinance rectifies this apparent omission by levying the fee of \$50 retrospective to 1 April 1985 when it was first introduced and collected.

Details of the Ordinance are set out in the attachment.

ATTACHMENT

Details of the Ordinance are as follows:

- Section 1 provides that the Ordinance may be cited as the Classification of Publications (Amendment) Ordinance (No. 3) 1994.
- Section 2 provides that the Ordinance is to commence on notification in the Gazette.
- Section 3 defines the 'Principal Ordinance' to mean the Classification of Publications Ordinance 1983.
- Section 4 amends the definition of 'computer game' in section 3A of the Principal Ordinance by removing reference to the 'R(18+)' and 'X(18+)' classifications following the decision to delete these classifications.
- Section 5 amends section 25A of the Principal Ordinance, which sets out the criteria for approval of the classification of a computer game as well as the criteria for deciding to refuse to approve the classification of a computer game. The amendment removes the 'R(18+)' and 'X(18+)' classifications for computer games. It also provides, in new sub-section 25A(3), that the Censorship Board is to refuse to approve the classification of a computer game where it is satisfied that the game is unsuitable for viewing or playing by a minor. This amendment ensures that material that previously fell within the 'R(18+)' or 'X(18+)' classification is refused classification.
- Section 6 amends section 26AA (which relates to approval of a computer game classification following a demonstration of the game) to delete the 'R(18+)' and 'X(18+)' classifications for computer games.
- Section 7 amends section 28AB to determine a fee for an application for review of a decision relating to the approval or refusal to approve the classification of a film or advertising matter in relation to a film. The determination is made retrospective to 1 April 1985 when the fee was first collected. As noted in the introduction to this Explanatory Statement, no record can be found of a determination of the fee having been made. In addition, the provision ensures that any fee paid between 1 April 1985 and the date the amending Ordinance comes into force is in discharge of the obligation to pay the fee.
- Section 8 amends section 35A of the Principal Ordinance (which contains the conditions applying to classified computer games) consequential upon the decision to delete the 'R(18+)' and 'X(18+)' classifications.
- Section 9 ensures that where any computer game has been classified with an 'X(18+)' or 'R(18+)' classification it is to be taken to have been refused classification from the date of commencement of this amending Ordinance.