

AUSTRALIAN CAPITAL TERRITORY

CLASSIFICATION OF PUBLICATIONS (AMENDMENT) ORDINANCE 1989

EXPLANATORY STATEMENT

No. 2, 1989

The purpose of the Classification of Publications (Amendment) Ordinance 1989 is to give effect to decisions made at meetings of the Standing Committee of Censorship Ministers on 30 June 1988 and 1 December 1988. The meetings considered the report of the Parliamentary Joint Select Committee on Video Material.

The Classification of Publications Ordinance 1983, which came into operation on 1 February 1984, established a classification system in the Australian Capital Territory for publications and films including videocassettes.

The principal elements of the Amendment Ordinance are as follows:

- . provision to enable the Chief Censor to determine the markings and appropriate warnings, if any, to be placed on videotapes and advertising matter by notice in the Gazette;
- . trailers included on video tapes are to relate only to titles classified under this Ordinance which carry classifications no higher than that of the main feature, e.g. the inclusion of a trailer for a feature classified 'R' would result in the video tape receiving an 'R' classification;
- . provision requiring sale/hire outlets to display a notice detailing the classifications applicable to films under the Ordinance and to related information as specified by the Chief Censor. Penalties for non-compliance with this provision are provided;
- . extension of the period of time specified relating to the forfeiture and return of publications from 14 days to 60 days. The current 14 day period is insufficient for the completion of censorship examination and documentation before charges can be laid;
- . a provision to enable a Minister of State for a State or the Northern Territory responsible for censorship to oblige the Attorney-General to direct the Censorship Board to review a previous decision, approving or refusing to approve the classification of a film or advertising matter relating to a film.

2.

The term "terrorism" has been deleted from the Ordinance and replaced with the phrase "that provides, incites or instructs in matters of crime or violence". The word "terrorism" was contained in the interpretation section of the Ordinance and was deemed to have the same meaning as in the Australian Security Intelligence Organisation Act 1979. As the word has now been removed from that Act, it can no longer be used as a reference.

Details of the proposed Amendment Ordinance are set out in the Attachment.

Authorised by the
Attorney-General for and on
behalf of the Minister for
Arts and Territories.

ATTACHMENT

Details of this Amendment Ordinance are as follows:

Clause 1 provides that the Ordinance may be cited as the Classification of Publication (Amendment) Ordinance 1989

Clause 2 provides that the "Principal Ordinance" referred to is the Classification of Publication Ordinance 1983.

Clause 3 amends section 3 of the Principal Ordinance (the interpretation section) by omitting from paragraph (c) of the definition of "objectionable publication" in subsection (1) "encourages terrorism" and substituting "instructs in matters of crime or violence", and by omitting from subsection (1) the definition of "terrorism".

Clause 4 amends section 19 of the Principal Ordinance by omitting from subsection (1) "he" and substituting "the classification officer", and by inserting in subsection (3) "or she" after "he". " , being a publication" is omitted from subsection (4) and "instructs in matters of crime or violence" is substituted for "encourages terrorism" in paragraph (4)(b). Subsection (5) is amended by inserting "or she" after "he".

Clause 5 amends section 25 by omitting from paragraph (4)(b) "encourages terrorism" and substituting the phrase "instructs in matters of crime or violence".

A new subsection 25(5) is inserted which provides that a video tape or disc will be refused classification if it includes a trailer advertising another film that has not been classified.

A new subsection 25(6) is inserted to provide that any trailers contained on a video tape or video disc shall relate only to titles which carry classifications no higher than that of the main feature. An 'X' film may only include trailers for 'X' films.

Clause 6 amends section 28 of the Principal Ordinance by removing the phrase "encourages terrorism" and substituting "instructs in matters of crime or violence".

A new subsection 28(3) is inserted and provides that advertising material may include such words or symbols as the Censorship Board, a member of that Board or a Deputy Censor thinks fit.

Clause 7 amends section 28A of the Principal Ordinance by inserting after subsection (1) subsection (1A) which obliges the Attorney-General to direct the Censorship Board to review a previous decision, approving or refusing to approve the classification of a film or advertising matter relating to a film, upon the written request of the Minister of State of a State or the Northern Territory responsible for censorship or, if the Attorney-General considers it desirable upon his or her own motion.

Clause 8 inserts subsection 29(1A) into the Principal Ordinance and provides that the notice of approval to the applicant for classification of the film must include a description of the markings determined in subsection 35(5) in relation to that classification.

Clause 9 amends section 35 of the Principal Ordinance by omitting from subsections (1A) and (2)(b) "prescribed" and substituting "determined". Paragraph (3)(c) is amended by inserting "or determined markings as the case requires".

A new subsection 35(4) is inserted to provide that trailers added to classified video tapes or video discs shall relate to titles classified no higher than the classification of the main feature. In the case of an 'X' film, trailers may only appear of an 'X' classification.

A new subsection 35(6) is inserted and defines the term "determined markings" in relation to the classification given to a film.

Clause 10 amends section 46 of the Principal Ordinance by substituting "the person" for "he", and the phrase "or determined" is inserted after "prescribed".

Clause 11 amends section 47 of the Principal Ordinance by omitting from subsection (3) the phrase "marking prescribed" and substituting "markings determined".

Clause 12 amends section 49(1) of the Principal Ordinance by changing the terminology used to describe an unclassified publication and inserting in subsection (1), "a marking determined under subsection 35(5)" after the phrase "prescribed marking".

Clause 13 inserts new subsection 49A.(1) which provides that a notice showing the classification appropriate to films and videotapes as determined by the Chief Censor must be displayed at the point of sale. Penalties on conviction of \$500 or imprisonment for 3 months, or both, for an individual and \$2,500 for a body corporate are prescribed for non compliance with this condition of sale.

New subsection 49A.(2) is inserted which requires that such a notice is to be conspicuously placed, in order that it may be read conveniently by any person on the premises.

Clause 14 amends section 55 of the Principal Ordinance by changing the terminology in relation to persons who have committed an offence in subsection (2). In subsection 3 the period after an objectionable publication has been seized before such a publication may be forfeited to the Commonwealth has been increased from 14 days to 60 days. In subsections (4) and (5) non sexist terminology has been substituted. In subsection (7) the period that police officers have to charge persons with a offence following the seizure of an objectionable publication before that publication has to be returned to the person from whom it was seized has been increased from 14 days to 60 days. The current 14 day period is insufficient for the completion of censorship examination and documentation that is required before charges can be laid.

Regulation 5 of the Classification of Publications Regulations is amended by removing the prescribed markings for films. These markings are to be determined by the Chief Censor as detailed in Section 35 of the Ordinance.