

Queensland



**CLASSIFICATION OF
COMPUTER GAMES AND
IMAGES (INTERIM) ACT
1995**

Act No. 17 of 1995

Queensland



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GAMES AND IMAGES (INTERIM) ACT
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Queensland



**Classification of Computer Games and Images
(Interim) Act 1995**

Act No. 17 of 1995

**An Act to provide for the classification of computer games and
images, and for other purposes**

[Assented to 11 April 1995]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Classification of Computer Games and Images (Interim) Act 1995*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Definitions and dictionary

3. The dictionary¹ in schedule 2 defines particular words used in this Act.

PART 2—CLASSIFICATION OF COMPUTER GAMES

Classification under Ordinance

4.(1) If a computer game is not classified under this Act but is classified, or is refused classification, under the Ordinance,² the computer games classification, or its refusal of classification, under the Ordinance has effect for this Act.

¹ In some Acts, definitions are contained in a dictionary appearing as a schedule and forming part of the Act—*Acts Interpretation Act 1954*, section 14.

² To aid readers of this Act, a copy of the provisions of the *Classification of Publications Ordinance 1983* (ACT) as applying under section 5 is attached to this Act. The attachment is not part of this Act.

(2) If—

- (a) a computer game is classified or is refused classification under this Act; and
- (b) the computer game is later classified under the Ordinance;

the classification under the Ordinance has no effect for this Act and the game is taken not to be classified under the Ordinance.

Classification of computer games by computer games classification officer

5.(1) If a computer game is not classified, the computer games classification officer may classify the game or refuse to approve the classification of the game.

(2) The computer games classification officer may act on the officer's own initiative or because of representations made about the game to the officer.

(3) For this section, the following provisions of the Ordinance apply with all necessary changes as if they were part of this Act—

- section 25A (Approval of computer game by censorship board)
- section 34(1) to (4) (Criteria for classification)
- definitions relevant to the provisions unless the term is defined in this Act or the *Acts Interpretation Act 1954*.

(4) Without limiting subsection (3)—

- (a) in applying section 25A of the Ordinance, a reference to the censorship board is a reference to the computer games classification officer; and
- (b) in applying section 34 of the Ordinance—
 - (i) a reference to a prescribed authority is a reference to the computer games classification officer; and
 - (ii) a reference to publication is a reference to a computer game.

Reclassification of computer games

6.(1) This section applies if the computer games classification officer is satisfied a computer game classified, or refused approval for classification, under section 5 should have a different classification, or be classified.

(2) The computer games classification officer may set the classification, or the refusal, aside and again classify or refuse to approve the classification with the game under section 5.

Production of computer game for classification or reclassification

7.(1) For sections 5 and 6,³ the computer games classification officer may ask a person (the “**publisher**”) who publishes a computer game to give the officer a copy of the game.

(2) The request must be in a signed notice given to the publisher.

(3) If a copy of a computer game is given to the computer games classification officer under this section, the officer must promptly classify the game under section 5 or reclassify the game under section 6.

(4) When the game is classified or refused approval for classification the computer games classification officer must immediately return the game to the publisher.

(5) Subsection (4) does not apply to a computer game that is refused approval for classification if it is a child abuse computer game.

Appeal to appeal body against classification of, or refusal to approve classification of computer game

8. If the computer games classification officer classifies, or refuses to approve the classification of a computer game under section 5, a person whose interests are adversely affected by the decision may appeal to the appeal body within 28 days after the person becomes aware of the decision.

³ Sections 5 (Classification of computer games by computer games classification officer) and 6 (Reclassification of computer games)

PART 3—DEMONSTRATION OF COMPUTER GAMES

Prohibition against demonstration of unclassified computer game

9.(1) A person must not demonstrate, or attempt to demonstrate, an unclassified computer game in a public place.

Maximum penalty—

- (a) for a computer game that, if it were classified, would be classified as a G, G(8+) or M(15+) computer game—5 penalty units; or
- (b) for a computer game that, if it were classified, would be classified as an MA(15+) computer game—20 penalty units; or
- (c) for a computer game that has been, or would have been, refused approval for classification—150 penalty units or imprisonment for 1 year.

(2) Subsection (1) applies to a computer game published before the commencement of this Act only if the game is an objectionable computer game.

Restriction on demonstration of MA(15+) computer game

10.(1) A person must not demonstrate, or attempt to demonstrate, in a public place an MA(15+) computer game if a child under 15 years who is not accompanied by an adult is present.

Maximum penalty—10 penalty units.

(2) A person does not commit an offence against subsection (1) if the person reasonably believes the child is at least 15 years or is accompanied by an adult when the game is demonstrated.

PART 4—ADVERTISING AND SUPPLY OF COMPUTER GAMES

Use of advertisements

11.(1) A person must not use, or attempt to use, an advertisement for a computer game if the advertisement has been refused approval under the Ordinance.

Maximum penalty—60 penalty units.

(2) A person must not use, or attempt to use, an advertisement approved under the Ordinance for a computer game other than in the form in which the advertisement was approved.

Maximum penalty—60 penalty units.

(3) A person must not use, or attempt to use, an advertisement approved under the Ordinance for a computer game other than under the conditions (if any) on which the approval was given.

Maximum penalty—60 penalty units.

Advertisement to bear determined markings

12. A person must not publish, or attempt to publish, an advertisement for a computer game unless the advertisement bears the determined markings for the computer game displayed so that they are clearly visible, having regard to the size and nature of the advertisement.

Maximum penalty—10 penalty units.

False advertising of computer games

13.(1) A person must not publish, or attempt to publish, an advertisement for a classified computer game indicating the computer game is unclassified or has a classification other than its classification under the Ordinance or this Act.

Maximum penalty—60 penalty units.

(2) A person must not publish, or attempt to publish, an advertisement

for an objectionable computer game.

Maximum penalty—60 penalty units or imprisonment for 6 months.

Markings on containers

14. A person must not sell, or attempt to sell, a computer game unless the container, wrapping or casing in which the computer game is contained, bears the determined markings for the game's classification.

Maximum penalty—10 penalty units.

Display of information about classification

15.(1) A person who sells, or attempts to sell, a classified computer game in a public place must keep displayed, as required by subsection (2), a notice about classifications in the same form as that determined under section 26⁴ of the *Publications Control Act 1989* (ACT) for a computer game.

Maximum penalty—10 penalty units.

(2) The notice must be displayed in a conspicuous place and in a way that it can be conveniently read by any person on the premises.

Classified computer games containing advertisements for other computer games

16. A person must not sell, or attempt to sell, a classified computer game containing an advertisement for—

- (a) if the computer game is classified as a G computer game—a computer game classified as a G(8+), M(15+) or MA(15+) computer game or an objectionable computer game; or
- (b) if the computer game is classified as a G(8+) computer game—a computer game classified as a M(15+) or MA(15+) computer game or an objectionable computer game; or

⁴ Section 26 (Possession of objectionable computer game)

- (c) if the computer game is classified as an M(15+) computer game—a computer game classified as an MA(15+) computer game or an objectionable computer game; or
- (d) if the computer game is classified as an MA(15+) computer game—an objectionable computer game.

Maximum penalty—10 penalty units.

Display for sale of MA(15+) computer game

17. A person who displays, or attempts to display, for sale an MA(15+) computer game or an advertisement for an MA(15+) computer game must comply with the conditions prescribed under a regulation.

Maximum penalty—10 penalty units.

Sale of MA(15+) computer game to certain children prohibited

18.(1) A person must not sell or deliver, or attempt to sell or deliver, an MA(15+) computer game to a child under 15 years unless the child is accompanied by an adult.

Maximum penalty—20 penalty units.

(2) A person does not commit an offence against subsection (1) if the person reasonably believes the child is at least 15 years or is accompanied by an adult.

(3) Also, a person does not commit an offence against subsection (1) about the delivery of a computer game if—

- (a) the child is employed by a person in a business of selling computer games; and
- (b) the delivery takes place in the course of the employment.

Sale of unclassified computer games prohibited

19.(1) A person must not sell, or attempt to sell, an unclassified computer game.

Maximum penalty—

- (a) for a computer game that, if it were classified, would be classified as a G, G(8+) or M(15+) computer game—5 penalty units; or
- (b) for a computer game that, if it were classified, would be classified as an (MA)(15+) computer game—10 penalty units; or
- (c) for a computer game that has been, or would have been, refused approval for classification—150 penalty units.

(2) Subsection (1) applies to a computer game published before the commencement of this Act only if the game is an objectionable computer game.

Sale of improperly marked unclassified computer games prohibited

20. A person must not sell, or attempt to sell, an unclassified computer game if the container, wrapping or casing in which the computer game is contained bears a marking or other thing indicating or suggesting the computer game has been classified.

Maximum penalty—60 penalty units or imprisonment for 6 months.

Sale of improperly marked classified computer games

21. A person must not sell, or attempt to sell, a classified computer game if the container, wrapping or casing in which the computer game is contained bears a mark or other thing indicating the computer game is not classified or has a classification other than the classification it has under this Act.

Maximum penalty—60 penalty units or imprisonment for 6 months.

PART 5—OBJECTIONABLE COMPUTER GAMES

Public demonstration of objectionable computer game

22. A person must not demonstrate, or attempt to demonstrate, an objectionable computer game in a way that it can be seen by persons in a

public place.

Maximum penalty—20 penalty units.

Demonstration of an objectionable computer game before a minor

23. A person must not demonstrate, or attempt to demonstrate, an objectionable computer game in the presence of a child.

Maximum penalty—10 penalty units.

Sale of objectionable computer game prohibited

24. A person must not sell, or attempt to sell, an objectionable computer game.

Maximum penalty—60 penalty units or imprisonment for 6 months.

Keeping together of classified and objectionable computer games

25. A person must not, on premises on or from which classified computer games are sold, keep or have possession of an objectionable computer game.

Maximum penalty—60 penalty units or imprisonment for 6 months.

Possession of objectionable computer game

26.(1) A person must not have possession of an objectionable computer game to sell it.

Maximum penalty—60 penalty units or imprisonment for 6 months.

(2) A person must not have possession of an objectionable computer game to demonstrate it in a public place.

Maximum penalty—250 penalty units or imprisonment for 2 years.

(3) A person must not knowingly have possession of a child abuse computer game.

Maximum penalty—250 penalty units or imprisonment for 2 years.

Making objectionable computer game

27.(1) A person must not, for gain, make or produce, or attempt to make or produce, an objectionable computer game.

Maximum penalty—250 penalty units or imprisonment for 2 years.

(2) A person must not, for gain, copy, or attempt to copy, an objectionable computer game.

Maximum penalty—250 penalty units or imprisonment for 2 years.

(3) A person must not make or produce, or attempt to make or produce, a child abuse computer game.

Maximum penalty—1 000 penalty units or imprisonment for 5 years.

(4) A person must not copy, or attempt to copy, a child abuse computer game.

Maximum penalty—800 penalty units or imprisonment for 3 years.

Obtaining minor for objectionable computer game

28. A person must not obtain, or attempt to obtain, a minor to be in any way concerned in the making or production of an objectionable computer game.

Maximum penalty—800 penalty units or imprisonment for 3 years.

No liability in certain circumstances

29. A person is not guilty of an offence against section 26 or 27⁵ in relation to an objectionable computer game of the kind other than that mentioned in the definition “objectionable computer game” paragraph (b), (c) or (d) if—

- (a) the person took all reasonable steps to obtain classification of the computer game under the Ordinance, having regard to the stage of making or production of the computer game or the time that

⁵ Sections 26 (Possession of objectionable computer game) or 27 (Making objectionable computer game)

has elapsed since making or production of the computer game;
and

- (b) the person believes on reasonable grounds that the computer game will be classified.

PART 6—INVESTIGATION AND ENFORCEMENT

Division 1—Administration generally

Appointment of inspectors

30.(1) The chief executive may appoint any of the following persons to be an inspector—

- (a) an officer or employee of the department;
- (b) a police officer.

(2) The chief executive may appoint a person (other than a police officer) mentioned in subsection (1) to be an inspector only if—

- (a) the chief executive believes the person has the necessary expertise or experience to be an inspector; or
- (b) the person has satisfactorily completed a course of training approved by the chief executive.

Terms of appointment of inspectors

31. An inspector holds office under the conditions stated in the instrument of appointment.

Identity cards

32.(1) This section does not apply to an inspector who is a police officer.

(2) The chief executive must give each inspector an identity card.

(3) The identity card must—

- (a) contain a recent photograph of the person; and
- (b) be signed by the person; and
- (c) identify the person as an inspector under this Act; and
- (d) state an expiry date.

(4) A person who stops being an inspector must return the person's identity card to the chief executive as soon as practicable (but within 21 days) after the person stops being an inspector, unless the person has a reasonable excuse.

Maximum penalty—5 penalty units.

(5) This section does not prevent the giving of a single identity card to the person for this and other Acts.

Production or display of inspector's identity card

33.(1) This section does not apply to a uniformed police officer.

(2) An inspector may exercise a power in relation to a person only if—

- (a) the inspector—
 - (i) for an inspector who is a police officer—first produces the inspector's police identity card for the person's inspection; or
 - (ii) for any other inspector—first produces the inspector's identity card for the person's inspection; or
- (b) the inspector has the inspector's identity card displayed so it is clearly visible to the person.

(3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the inspector must produce the identity card as soon as it is practicable.

Division 2—Inspector’s entry to places and vehicles

Entry to place by inspectors

34.(1) An inspector may enter a place if—

- (a) its occupier consents to the entry; or
- (b) the entry is authorised by a warrant.

(2) However, an inspector may, without the occupier’s consent or a warrant, enter—

- (a) a public place when the place is open to the public; or
- (b) the land around the premises to ask its occupier for consent to enter the premises.

Consent to entry

35.(1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place.

(2) Before asking for the consent, the inspector must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

- (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) that the occupier gives the inspector consent to enter the place and exercise powers under this part; and
- (d) the time and date the consent was given.

(5) If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.

(6) Subsection (7) applies to a court if—

- (a) an issue arises, in a proceeding in or before the court, whether the occupier of a place consented to an inspector entering the place under this part; and
- (b) an acknowledgment under this section is not produced in evidence for the entry; and
- (c) it is not proved that the occupier consented to the entry.

(7) The court may presume that the occupier did not consent.

Warrants

36.(1) An inspector may apply to a Magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The Magistrate may refuse to consider the application until the inspector gives the Magistrate all the information the Magistrate requires about the application in the way the Magistrate requires.

Example—

The Magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The Magistrate may issue a warrant only if the Magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against this Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

- (a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector’s powers under this part; and
- (b) the offence for which the warrant is sought; and

- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 7 days after the warrant's issue, when the warrant ends.

Warrants—applications made other than in person

37.(1) An inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the inspector's remote location.

(2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

(3) The inspector may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the Magistrate must immediately fax a copy to the inspector if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy of the warrant to the inspector—

- (a) the Magistrate must—
 - (i) tell the inspector what the terms of the warrant are; and
 - (ii) tell the inspector the date and time the warrant was issued; and
- (b) the inspector must complete a form of warrant (“**warrant form**”) and write on it—
 - (i) the Magistrate's name; and
 - (ii) the date and time the Magistrate issued the warrant; and
 - (iii) the terms of the warrant.

(6) The facsimile warrant, or the warrant form properly completed by the

inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the Magistrate.

(7) The inspector must, at the first reasonable opportunity, send the Magistrate—

- (a) the sworn application; and
- (b) if the inspector completed a warrant form—the completed warrant form.

(8) On receiving the documents, the Magistrate must attach them to the warrant.

(9) Subsection (10) applies to a court if—

- (a) an issue arises, in a proceeding in or before the court, whether a power exercised by an inspector was not authorised by a warrant issued under this section; and
- (b) the warrant is not produced in evidence.

(10) The court must presume that the exercise of the power was not authorised by a warrant issued under this section, unless the contrary is proved.

General powers after entering places

38.(1) This section applies to an inspector who enters a place.

(2) For monitoring or enforcing compliance with this part, the inspector may—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
- (c) demonstrate a computer game at the place; or
- (d) copy a document or computer game at the place; or
- (e) take into or onto the place any persons, equipment and materials the inspector reasonably requires for exercising a power under this part; or

- (f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the powers under paragraphs (a) to (e).

(3) A person must comply with a requirement under subsection (2)(f), unless the person has a reasonable excuse for not complying.

Maximum penalty—10 penalty units.

(4) If the requirement is to be complied with by the person giving information, or producing a document (other than a document required to be kept by the person under this part), it is a reasonable excuse for the person to fail to comply with the requirement, if complying with the requirement might tend to incriminate the person.

(5) This section applies to an inspector who enters a place to get the occupier's consent only if the consent is given or the entry is otherwise authorised.

Entry and search of vehicles etc.

39.(1) This section applies to an inspector who reasonably suspects—

- (a) a vehicle is being, or has just been, used to commit an offence; or
- (b) a vehicle, or a thing in a vehicle, may provide evidence of an offence that is being, or has just been, committed.

(2) The inspector may—

- (a) enter the vehicle, using necessary and reasonable help and force; or
- (b) search any part of the vehicle; or
- (c) demonstrate a computer game in the vehicle; or
- (d) inspect, measure, test, photograph or film any part of the vehicle or anything in the vehicle; or
- (e) copy a document or a computer game in the vehicle; or
- (f) take into the vehicle the persons, equipment and materials the inspector reasonably requires for exercising a power under this section; or

- (g) require the person in control of the vehicle to give the inspector reasonable help to exercise the powers mentioned in paragraphs (a) to (f).

(3) A person must comply with a requirement under subsection (2)(g), unless the person has a reasonable excuse for not complying.

Maximum penalty—10 penalty units.

(4) Before entering an unattended vehicle, an inspector must take reasonable steps to advise its owner, or the person in control of it, of the intention to enter.

Power to enable vehicle to be entered

40.(1) This section applies if an inspector intends to enter a vehicle.

(2) If the vehicle is moving or about to move, the inspector may require the person in control of the vehicle to stop or not to move it.

(3) The requirement may be given by a sign or hand signal.

(4) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse for not complying.

Maximum penalty—50 penalty units.

Division 3—Power to seize evidence

Power to seize evidence

41.(1) An inspector who enters a place with the occupier's consent may seize a thing in the place if—

- (a) the inspector reasonably believes the thing is evidence of an offence against this Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(2) An inspector who enters a place with a warrant may seize the evidence for which the warrant was issued.

(3) An inspector may also seize anything else at a place or in a vehicle if the inspector reasonably believes—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being hidden, lost, or destroyed or used to continue or repeat the offence.

(4) Also, an inspector may seize a thing if the inspector reasonably believes it has just been used in committing an offence against this Act.

Additional power of inspector to seize computer games

42.(1) This section applies if—

- (a) someone makes representations to the computer games classification officer about a computer game; and
- (b) the computer games classification officer reasonably believes the computer game is an objectionable computer game.

(2) The computer games classification officer may direct an inspector to seize the computer game from any public place when the place is open to the public.

(3) The inspector may seize the computer game from the place.

(4) An inspector who seizes a computer game under subsection (3) must, as soon as practicable, submit the computer game to the computer games classification officer for classification.

(5) If a computer game seized under subsection (3) is classified as a G, G(8+), M(15+) or an MA(15+) computer game, the inspector must immediately return the computer game to the person from whom it was seized.

Powers supporting seizure

43.(1) Having seized a thing, an inspector may—

- (a) move the thing from the place or vehicle where it was seized (the “**place of seizure**”); or
- (b) leave the thing at the place of seizure but take reasonable action to

restrict access to it.

Examples of restricting access to a thing—

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.

(2) If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing or something restricting access to the thing without an inspector's approval.

Maximum penalty—60 penalty units.

(3) To enable a thing to be seized, an inspector may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and
- (b) if necessary, to remain in control of it at the stated place for a reasonable time.

(4) The requirement—

- (a) must be made by notice in the approved form; or
- (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.

(5) The person must comply with the requirement, unless the person has a reasonable excuse for not complying.

Maximum penalty—60 penalty units.

(6) A further requirement may be made under this section in relation to the same thing if it is necessary and reasonable to make the further requirement.

Receipt for seized things

44.(1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with

subsection (1), the inspector must leave the receipt in a conspicuous position and in a reasonably secure way at the place of seizure.

(3) The receipt must describe generally each thing seized and its condition.

(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the notice required by the section (given the thing's nature, condition and value).

Return of seized things

45.(1) The inspector must return a seized thing to its owner at the end of—

- (a) 60 days; or
- (b) if a proceeding for an offence involving it is started within the 60 days—the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), the inspector must immediately return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

(3) Subsections (1) and (2) do not apply to a seized thing that is a child abuse computer game.

Access to seized things

46.(1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

(3) Also, subsection (1) does not apply if the seized thing is a child abuse computer game.

Division 4—General powers

Power to require name and address

47.(1) This section applies if—

- (a) an inspector finds a person committing an offence against this Act; or
- (b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.

(2) The inspector may require the person to state the person's name and residential address.

(3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

(4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.

(5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(6) A person does not commit an offence against subsection (5) if—

- (a) the person was required to state the person's name and address by an inspector who suspected the person had committed an offence; and
- (b) the person is not proved to have committed the offence.

(7) An inspector who is an officer or employee of the department may ask a police officer to assist with the enforcement of this section.

Steps police officer may take for failure to give name and address

48. A police officer may take the following steps if a person fails to comply with a requirement made by the officer or another inspector under

section 47(2) or (4)⁶—

- (a) the police officer may ask the person whether the person has a reasonable excuse for not complying with the requirement and, if the person gives an excuse, ask for details or further details of the excuse;
- (b) if the person does not answer the question or gives an excuse that the police officer reasonably believes is not a reasonable excuse, the officer may—
 - (i) tell the person that the officer is considering the arrest of the person for failing to comply with the requirement; and
 - (ii) require the person to state the person's name and residential address (or, if the person has no residential address, an address at which the person can most likely be contacted) and, if the officer reasonably suspects that the stated name or address is false, require the person to give evidence of the correctness of the stated name or address;
- (c) the police officer may arrest the person without a warrant if the officer reasonably believes—
 - (i) the person has not complied with a requirement of the officer under paragraph (b)(ii); and
 - (ii) proceedings by way of complaint and summons against the person for an offence would be ineffective.

Power to require information

49.(1) This section applies if an inspector reasonably believes—

- (a) an offence against this Act has just been committed; and
- (b) a person may be able to give information about the offence.

(2) The inspector may require the person to give information about the offence.

(3) When making the requirement, the inspector must warn the person it

⁶ Section 47 (Power to require name and address)

is an offence to fail to give the information, unless the person has a reasonable excuse.

(4) The person must give the information, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(5) It is a reasonable excuse for an individual to fail to give information if complying with the requirement might tend to incriminate the individual.

Division 5—Other enforcement matters

False or misleading statements

50.(1) A person must not—

- (a) state anything to an inspector that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an inspector anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—50 penalty units.

(2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

Obstructing inspector

51.(1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse for the obstruction.

Maximum penalty—50 penalty units.

(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person.

(3) In warning a person under subsection (2), an inspector must warn the person that—

- (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and
- (b) the inspector considers the person's conduct is an obstruction.

(4) If, after an inspector who is an officer or employee of the department has warned the person, the person continues with the conduct or repeats the conduct, the officer may ask a police officer to assist with the enforcement of this section.

Steps a police officer may take for obstruction

52. A police officer may take the following steps if a person has obstructed an inspector—

- (a) the officer may ask the person whether the person has a reasonable excuse for the conduct and, if the person gives an excuse, ask for details or further details of the excuse;
- (b) if the person does not answer the question or gives an excuse the officer reasonably believes is not a reasonable excuse—the officer may—
 - (i) tell the person that the officer is considering arresting the person for obstruction; and
 - (ii) require the person to stop, or not repeat, the conduct;
- (c) the officer may arrest the person without a warrant if the officer reasonably believes—
 - (i) the person has not complied with a requirement under paragraph (b)(ii); and
 - (ii) proceedings by way of complaint and summons against the person for an offence against section 51⁷ would be ineffective.

⁷ Section 51 (Obstructing authorised officers)

Impersonating inspectors

53. A person must not pretend to be an inspector.

Maximum penalty—100 penalty units or imprisonment for 6 months.

Inspector to give notice of damage

54.(1) This section applies if—

- (a) an inspector damages something when exercising or purporting to exercise a power; or
- (b) a person (the “**other person**”) acting under the direction of an inspector damages something.

(2) The inspector must promptly give written notice of particulars of the damage to the person who appears to be the owner of the thing.

(3) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the inspector’s or other person’s control, the inspector may state it in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the inspector reasonably believes is trivial.

(6) In this section—

“**owner**” of a thing includes the person in possession or control of it.

Compensation

55.(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part, including, for example, in complying with a requirement made of the person.

(2) Compensation may be claimed and ordered in a proceeding—

- (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an offence brought against the person claiming compensation.

(3) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

PART 7—EXEMPTIONS

Division 1—Exemption for demonstration of computer games by approved entities

Approval of entity

56.(1) On receipt of a written application, the computer games classification officer may approve an entity as an approved entity.

(2) In considering whether to approve the entity, the computer games classification officer must have regard to—

- (a) the purpose for which the entity was formed; and
- (b) the extent to which the entity carries on activities of a medical, scientific, educational, cultural or artistic nature; and
- (c) the reputation of the entity for the demonstration of computer games; and
- (d) the conditions imposed by the entity about the admission of persons to the demonstration of computer games by the entity.

(3) The approval—

- (a) must be published in the Gazette; and
- (b) takes effect on the date of publication; and
- (c) continues in force until it is revoked.

(4) The computer games classification officer may revoke the approval if

the computer games classification officer decides that, because of a change in the things mentioned in subsection (2), it is no longer appropriate that the entity be an approved entity.

Application by approved entity for exemption for demonstration of computer game

57. An application for an exemption from this Act, or a provision of this Act, for a computer game that an approved entity intends to demonstrate at a stated event must—

- (a) be made by the approved entity; and
- (b) state the computer game and the event at which the approved entity intends to demonstrate the computer game; and
- (c) be accompanied by a synopsis of the story or events depicted in the computer game; and
- (d) be given to the computer games classification officer in writing.

Exemption for demonstration of computer game

58.(1) On receipt of an application under section 57,⁸ the computer games classification officer may exempt an approved entity from this Act, or stated provisions of this Act, for a stated computer game to be demonstrated at a stated event.

(2) The exemption may be given on conditions.

(3) If the conditions are complied with, subsection (4) has effect for the demonstration by the approved entity of the computer game at the event.

(4) This Act, or the provisions of this Act stated in the exemption, do not apply and the computer game is not indecent or obscene material for the purposes of the Criminal Code or the *Vagrants, Gaming and Other Offences Act 1931*.

⁸ Section 57 (Application by approved entity for exemption for demonstration of computer game)

Division 2—Exemption for medical, educational or scientific computer games

Exemption of entity and computer game for medical etc. purposes

59.(1) On receipt of a written application, the computer games classification officer may, in writing, exempt an entity from this Act, or specified provisions of this Act, for specified computer games.

(2) An exemption may only be given for computer games that are—

- (a) of a medical, educational or scientific character; or
- (b) intended to be used by the person or body for a medical, educational or scientific purpose.

(3) The exemption may be given on conditions.

(4) If the conditions are complied with, subsection (5) has effect for the entity and the computer game.

(5) This Act, or the provisions of this Act stated in the exemption, do not apply and the computer game is not indecent or obscene material for the purposes of the Criminal Code or the *Vagrants, Gaming and Other Offences Act 1931*.

Division 3—Appeal to appeal body about approval of entities and exemptions

Appeal to appeal body against refusal to approve entity etc.

60.(1) If the computer games classification officer makes a decision—

- (a) under section 56⁹—
 - (i) refusing to approve an entity; or
 - (ii) revoking the approval of an entity; or

⁹ Section 56 (Approval of entity)

(b) refusing to give an exemption under section 58 or section 59;¹⁰ the computer games classification officer must notify the entity in writing of the decision and the reasons for the decision.

(2) Within 28 days after being notified of the decision, the entity may appeal to the appeal body against the decision.

PART 8—MISCELLANEOUS

Appeal procedure

61.(1) This section applies to an appeal to the appeal body under section 8 and section 60.¹¹

(2) The appeal must be started by giving written notice of appeal to the appeal body and the computer games classification officer.

(3) The notice of appeal must state fully the grounds of appeal and the facts relied on.

(4) The appeal body must—

- (a) affirm the decision appealed against; or
- (b) vary the decision appealed against; or
- (c) revoke the decision and substitute an alternative decision.

(5) For the appeal, the appeal body may exercise all the powers of the computer games classification officer.

¹⁰ Sections 58 (Exemption for demonstration of computer game) or 59 (Exemption of entity and computer game for medical etc. purposes)

¹¹ Sections 8 (Appeal to appeal body against classification of, or refusal to approve classification of computer game) and 60 (Appeal to appeal body against refusal to approve entity etc.)

Evidentiary provisions

62.(1) This section applies to a proceeding under this Act.

(2) The appointment or power of the computer games classification officer, the officer's delegate and an inspector must be presumed unless a party, by reasonable notice, requires proof of—

- (a) the appointment; or
- (b) the power to do anything under this Act.

(3) A signature purporting to be the signature of the computer games classification officer is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the computer games classification officer and stating any of the following matters is evidence of the matter—

- (a) a stated computer game has been classified (and stating the classification) or refused approval for classification;
- (b) a computer game has not been classified;
- (c) a computer game would, if classified, be classified (and stating the classification) or would be refused approval for classification and the grounds for refusal;
- (d) an advertisement for a computer game has been approved or has been refused approval.

Indictable offences and summary offences

63.(1) An offence against section 28¹² or against another provision of this Act involving a child abuse computer game is punishable on indictment.

(2) Any other offence against this Act is punishable summarily.

(3) An indictable offence against this Act may be heard and decided summarily at the defendant's election.

¹² Section 28 (Obtaining minor for objectionable computer game)

Forfeiture

64.(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—

- (a) anything (including a computer or computer game) used to commit the offence; or
- (b) anything else, the subject of the offence.

(2) The court may make the order—

- (a) whether or not the thing has been seized; and
- (b) if the thing has been seized—whether or not the thing has been returned to its owner.

(3) The court may make an order to enforce the forfeiture that it considers appropriate.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

Dealing with forfeited things

65. On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with as directed by the chief executive.

Classified computer games not indecent or obscene

66. A classified computer game and an approved advertisement for the game are not indecent or obscene material for the purposes of the Criminal Code or the *Vagrants, Gaming and Other Offences Act 1931*.

Regulations

67.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may prescribe penalties of fines of not more than 20 penalty units for offences against a regulation.

(3) A regulation may make provision about the constitution, practice and procedure of the appeal body (which may be the holder of an office),

including provision in relation to the making of arrangements between the State and the Commonwealth about the constitution of the appeal body.

Delegation by computer games classification officer

68.(1) The computer games classification officer may, with the chief executive's written approval, delegate the officer's powers under this Act to—

- (a) another officer of the department; or
- (b) someone else prescribed under a regulation.

(2) The computer games classifications officer may delegate the officer's powers only if the officer is satisfied the delegate has the necessary expertise or experience to exercise the powers.

Chief executive may approve forms

69. The chief executive may approve a form for use under this Act.

Expiry of Act

70. This Act expires 2 years after it commences.

PART 9—AMENDMENT OF ART UNIONS AND PUBLIC AMUSEMENTS ACT 1992

Amendment of Art Unions and Public Amusements Act 1992

71. Schedule 1 amends the *Art Unions and Public Amusements Act 1992*.

SCHEDULE 1

ACT AMENDED

section 71 of the Act

ART UNIONS AND PUBLIC AMUSEMENTS ACT 1992

1. Section 76(b)—

omit, insert—

‘(b) the chief executive has approved it.’.

2. Section 80(1)—

omit, insert—

‘**80.(1)** A person may apply to the chief executive for the approval of a public amusement.’.

3. Section 80(3)—

omit, insert—

‘**(3)** If the chief executive is satisfied a public amusement is not capable of being converted to a gaming machine and safe to use, the chief executive may approve the public amusement.’.

SCHEDULE 2

DICTIONARY

section 3 of the Act

“advertisement”, for a computer game, includes—

- (a) every visual form of advertising (including any accompanying words or any spoken words or other sounds), whether in or on a book, paper, magazine, poster, photograph, sketch, program, film, slide or anything else (other than an item of clothing); and
- (b) any form of advertising capable of being heard from any instrument or device designed or used for the production of sound; and
- (c) any written or pictorial matter contained or displayed in or on a container, wrapping or casing used to enclose the computer game.

“appeal body” means the body prescribed under section 67¹³ of the Act as the appeal body for this Act.

“approved form” means a form approved by the chief executive.¹⁴

“at” a place includes in or on the place.

“bulletin board” means a system of electronically stored information accessible by computer through the telecommunications network.

“child abuse computer game” means a computer game that is an objectionable computer game because it depicts a child (whether engaged in sexual activity or otherwise) who is, or is apparently, under 16 years in a way likely to cause offence to a reasonable adult.

¹³ Section 67 (Regulations)

¹⁴ The chief executive is the chief executive of the department—see *Acts Interpretation Act 1954*, s 33(5B).

SCHEDULE 2 (continued)

“classified” means classified under this Act or the Ordinance.

“computer game” means—

- (a) a computer program and associated data, capable of generating a display on a computer monitor, television screen, liquid crystal display or similar medium; or
- (b) a computer generated image;

but does not include—

- (c) a bulletin board; or
- (d) a business, accounting, professional, scientific or educational computer program or computer generated image, other program or image containing a computer game that would, if classified, be classified as an MA(15+)computer game, or be refused approval for classification.

“computer games classification officer” means the person holding the office of computer games classification officer under the *Public Service Management and Employment Act 1988*.

“computer generated image” means electronically recorded data capable, by way of an electronic device, of being produced on a computer monitor, 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.

“conviction” includes a finding of guilt, and the acceptance of a plea of guilty, by a court.

“deal with” includes sell, dispose of and destroy.

“demonstrate” includes exhibit, display, screen, play and make available for playing.

“determined markings” means markings determined under the Ordinance.

“objectionable computer game” means an unclassified computer game,

SCHEDULE 2 (continued)

or an unapproved advertisement for a computer game, that—

- (a) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence, or revolting or abhorrent phenomena, in a way that offends against standards of morality, decency and propriety generally accepted by reasonable adults; or
- (b) depicts a minor (whether engaged in sexual activity or otherwise) who is, or is apparently, under 16 in a way likely to cause offence to a reasonable adult; or
- (c) promotes, incites or instructs in matters of crime or violence; or
- (d) has been refused classification or approval.

“obstruct” includes hinder, resist and attempt to obstruct.

“occupier”, of a place, includes a person who reasonably appears to be the occupier, or in charge, of the place.

“on” a place or vehicle includes in the place or vehicle.

“Ordinance” means the *Classification of Publications Ordinance 1983* (ACT).

“owner”, of a seized thing, includes the person from whom the thing was seized unless the inspector concerned is aware of the actual owner.

“person in control”, of a vehicle, includes—

- (a) the driver of the vehicle; or
- (b) the person who reasonably appears to be the driver; or
- (c) the person who appears to be, claims to be or acts as if he or she is in control of a vehicle.

“place” includes premises and a place on land or waters, but does not include a vehicle.

“possession”, of a computer game, includes—

- (a) custody or control of the computer game; and
- (b) an ability or right to obtain custody or control of the computer game.

SCHEDULE 2 (continued)

“premises” includes—

- (a) a building or structure, or part of a building or structure; and
- (b) the land where a building or structure is situated.

“public place” means a place that—

- (a) the public may use; or
- (b) is open to, or used by, the public (whether or not on payment of money).

“publish” includes sell and demonstrate.

“reasonably believes” means believes on grounds that are reasonable in all the circumstances.

“reasonably suspects” means suspects on grounds that are reasonable in all the circumstances.

“sell”, for a computer game, means—

- (a) sell, whether by wholesale or retail; or
- (b) display for sale; or
- (c) let on hire; or
- (d) exchange; or
- (e) distribute; or
- (f) offer or agree to do an act mentioned in paragraphs (a) to (e) or
- (g) invite to treat or expose for an act mentioned in paragraphs (a) to (e); or
- (h) cause or permit to be done an act mentioned in paragraphs (a) to (g).

“vehicle” includes an aircraft and a ship.

ATTACHMENT NOT FORMING PART OF ACT

SECTIONS 25A AND 34 OF ORDINANCE AS APPLIED UNDER THIS ACT

section 5 of the Act

Approval of computer game classification by *computer games classification officer*

25A.(1) Where the *computer games classification officer*¹ decides that a computer game—

- (a) is not an objectionable *computer game*; and
- (b) is not unsuitable for viewing or playing by a minor;

the *officer* shall approve the classification of the computer game—

- (c) as a “G” computer game, where *the officer* is of the opinion that the computer game is suitable for all ages;
- (d) as a “G (8+)” computer game, where *the officer* is of the opinion that the computer game cannot be recommended for viewing or playing by persons under the age of 8 years; or
- (e) as a “M(15+)” computer game, where *the officer* is of the opinion that the computer game cannot be recommended for viewing or playing by persons under the age of 15 years.

(2) Subject to this section, the *computer games classification officer* shall approve the classification of a computer game as an “MA (15+)” computer game where *the officer* decides that the computer game depicts, expresses or otherwise deals with sex, violence or coarse language in such a manner as to make the computer game unsuitable for viewing or playing by persons under the age of 15 years.

(3) The *computer games classification officer* shall refuse to approve the

¹ Italicised words indicate changes in the text of the Ordinance.

classification of a computer game where *the officer* is satisfied that the game is unsuitable for viewing or playing by a minor.

(5) The *computer games classification officer* shall refuse to approve the classification of a computer game where *the officer* is satisfied that the computer game depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a manner that it offends against the standards of morality, decency and propriety generally accepted by reasonable adult persons to the extent that it should not be classified.

(6) The *computer games classification officer* shall refuse to approve the classification of a computer game that—

- (a) depicts a child (whether engaged in sexual activity or otherwise) who is, or who is apparently, under the age of 16 years in a manner that is likely to cause offence to a reasonable adult person; or
- (b) promotes, incites or instructs in matters of crime or violence.

(7) Where a computer game includes a trailer advertising an unclassified computer game, the *computer games classification officer* shall refuse to approve the classification of the computer game.

(8) Where a computer game includes a trailer advertising a classified computer game, the *computer games classification officer* shall not approve the classification of the computer game—

- (a) as a “G” computer game if the advertised computer game is classified as a “G (8+)”, “M (15+)” or “MA (15+)” computer game;
- (b) as a “G (8+)” computer game if the advertised computer game is classified as an “M (15+)” or “MA (15+)” computer game; or
- (c) as an “M (15+)” computer game if the advertised computer game is classified as an “MA (15+)” computer game.

(9) Where the *computer games classification officer* approves the classification of a computer game, the officer shall determine the consumer advice that shall apply to that computer game.

Criteria for classification

34.(1) *The computer games classification officer* shall, in considering whether a *computer game* is an objectionable *computer game*, or is suitable or unsuitable for perusal, viewing or playing by a minor, have regard to the standards of morality, decency and propriety generally accepted by reasonable adult persons.

(2) *The computer games classification officer* shall, in performing the *officer's* functions under this *Act*, give effect, as far as possible, to the following principles—

- (a) that adult persons are entitled to read, hear and see what they wish;
- (b) that all persons are entitled to protection from exposure to unsolicited material that they find offensive;
- (c) the need to take account of community concerns about depictions which condone or incite violence, particularly sexual violence or the portrayal of persons in a demeaning manner.

(2A) *The computer games classification officer* shall apply the classification guidelines in deciding what classification (if any) should be given to a computer game (*words omitted*).

(3) *The computer games classification officer* shall, in deciding whether or not a *computer game* is an objectionable *computer game* or is suitable or unsuitable for perusal, viewing or playing by a minor, have regard to any literary, artistic or educational merit it may possess and to the general character of the computer game including whether it is of a medical, legal or scientific character.

(4) *The computer games classification officer* shall, in deciding what classification (if any) should be given to a *computer game* have regard to—

- (a) the persons or class of persons to or amongst whom it is published or is intended or likely to be published; and
- (b) the conditions (if any) subject to which it should be published.

(4A) to (5) *Not applicable.*

