

Queensland



CLASSIFICATION OF FILMS AMENDMENT BILL 1993

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1993

A BILL

FOR

An Act to amend the *Classification of Films Act 1991*

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

Short title 4

Clause1. This Act may be cited as the *Classification of Films Amendment Act 1993*. 5
6

Commencement 7

Clause2. This Act commences on a day to be fixed by proclamation. 8

Amended Act 9

Clause3. The *Classification of Films Act 1991* is amended as set out in this Act. 10
11

Amendment of s.3 (Definitions) 12

Clause4.(1) Section 3 (definition “sell”)— 13

omit. 14

(2) Section 3— 15

insert— 16

“**approved form**” means a form approved by the chief executive under section 66; 17
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“**arrangement**” includes scheme, agreement, understanding, promise or undertaking (whether express or implied); 19
20

“**chief executive**” means the chief executive of the department; 21

“**sell**” has the meaning given by section 3A;’. 22

Insertion of new s.3A 23

Clause5. After section 3— 24

insert— 25

‘Meaning of “sell”	1
‘3A. In this Act, “sell” , in relation to a film, means—	2
(a) sell, whether by wholesale or retail; or	3
(b) let on hire; or	4
(c) under or in connection with a commercial arrangement—	5
(i) exchange or distribute; or	6
(ii) enable or assist an exchange or distribution, even if the exchange or distribution is not, by itself, a commercial arrangement; or	7 8 9
(d) offer or agree to do an act mentioned in paragraphs (a) to (c); or	10
(e) cause or permit to be done an act mentioned in paragraphs (a) to (d).	11 12
<i>Example of paragraph (c)(ii)—</i>	13
Paragraph (c)(ii) applies if a person, for profit, establishes or maintains, or participates in the establishment or maintenance, of a club, association or business for the exchange of films by other persons (whether or not the exchange is for profit by them), for example by providing—	14 15 16 17
(a) services assisting the exchange in return for payment of club membership or other fees; or	18 19
(b) entrance, on payment of a fee, to premises where exchanges may take place.’.	20 21
Insertion of new s.4A	22
<i>Clause 6.</i> After section 4—	23
<i>insert—</i>	24
‘Delegation by films classification officer	25
‘4A. The films classification officer may delegate the officer’s powers to another officer of the department approved in writing by the chief executive.’.	26 27 28

Amendment of s.9 (Classification of films)	1
<i>Clause 7.(1)</i> Section 9(1)(d)—	2
<i>renumber</i> as section 9(1)(e).	3
(2) After section 9(1)(c)—	4
<i>insert</i> —	5
‘(d) as an “ MA ” film, if the censor is of the opinion that the film describes, depicts, expresses or otherwise deals with sex, violence or coarse language in a way that makes the film unsuitable for viewing by persons under 15 years; or’.	6 7 8 9
(3) Section 9(4)—	10
<i>omit, insert</i> —	11
‘ (4) If a video tape or video disc includes an advertisement for a classified film, the censor must not classify the video tape or video disc—	12 13
(a) as a ‘G’ film, if the advertised film is classified as a ‘PG’, ‘M’, ‘MA’ or ‘R’ film; or	14 15
(b) as a ‘PG’ film, if the advertised film is classified as an ‘M’, ‘MA’ or ‘R’ film; or	16 17
(c) as an ‘M’ film, if the advertised film is classified as an ‘MA’ or ‘R’ film; or	18 19
(d) as an ‘MA’ film, if the advertised film is classified as an ‘R’ film.’.	20 21
Amendment of s.21 (Prohibition against exhibition of unclassified films)	22 23
<i>Clause 8.(1)</i> Section 21(b) and(c)—	24
<i>renumber</i> as section 21(c) and (d) respectively.	25
(2) Section 21 (after paragraph (a))—	26
<i>insert</i> —	27
‘(b) in the case of a film that, if it were classified, would be classified as an ‘MA’ film—20 penalty units; or’.	28 29

Replacement of s.22 (Attendance of minor at exhibition of certain films—offence by exhibitor)	1
	2
<i>Clause 9. Section 22—</i>	3
<i>omit, insert—</i>	4
‘Attendance of certain minors at exhibition of certain films—offence by exhibitor	5
	6
‘22.(1) A person must not exhibit, or attempt to exhibit, in a public place a film classified as an ‘MA’ film if a minor who has reached 2 years but not 15 years and who is not accompanied by an adult is, or will be, present at any time during the exhibition of the film.	7
	8
	9
	10
Maximum penalty—10 penalty units.	11
‘(2) A person must not exhibit, or attempt to exhibit, in a public place a film classified as an ‘R’ film if a minor who has reached 2 years is, or will be, present at any time during the exhibition of the film.	12
	13
	14
Maximum penalty—10 penalty units.	15
‘(3) A person does not commit an offence against subsection (1) if the person or the person’s employee or agent believes on reasonable grounds that the minor concerned—	16
	17
	18
(a) has reached 15 years or has not reached 2 years; or	19
(b) is, or will be, accompanied by an adult during the exhibition of the film.	20
	21
‘(4) A person does not commit an offence against subsection (2) if the person or the person’s employee or agent believes on reasonable grounds that the minor concerned has reached 18 years or has not reached 2 years.’.	22
	23
	24
Replacement of s.25 (Power to demand name, age and address etc.)	25
<i>Clause 10. Section 25—</i>	26
<i>omit, insert—</i>	27
‘Power to require particulars of name, address and age	28
‘25.(1) This section applies only to the exhibition of an ‘MA’ or ‘R’ film.	29
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-
- ‘(2) If an inspector, exhibitor or an exhibitor’s employee or agent (the “inquirer”) has reasonable grounds for suspecting any of the circumstances mentioned in subsection (3) in relation to a person, the inquirer may require the person to give the particulars mentioned in subsection (4).’
- ‘(3) The suspected circumstances are—
- (a) that a person seeking admission, or who has been admitted, to the theatre where the film is about to be, or is being, exhibited has in the person’s care and control, or is accompanying, a minor who has reached—
 - (i) if the film is an ‘MA’ film—2 years but not 15 years; or
 - (ii) if the film is an ‘R’ film—2 years; or
 - (b) that a person who has been admitted to the theatre where the film has just been exhibited had in the person’s care and control, or accompanied, at any time during the exhibition a minor who had reached—
 - (i) if the film is an ‘MA’ film—2 years but not 15 years; or
 - (ii) if the film is an ‘R’ film—2 years; or
 - (c) that a person seeking admission, or who has been admitted, to the theatre where the film is about to be, or is being exhibited, or who has been admitted to the theatre where the film has just been exhibited, is a minor who has reached—
 - (i) if the film is an ‘MA’ film—2 years but not 15 years; or
 - (ii) if the film is an ‘R’ film—2 years.
- ‘(4) The required particulars are—
- (a) in relation to a person mentioned in subsection (3)(a) or (b)—
 - (i) the person’s correct name and address; and
 - (ii) to the person’s best knowledge—the minor’s correct name, address and age; or
 - (b) in relation to a person mentioned in subsection (3)(c)—the person’s correct name, address and age.

‘Proof of particulars may be required

1

‘25A.(1) If an inspector, exhibitor or an exhibitor’s employee or agent (the **“inquirer”**) has reasonable grounds to believe that any of the particulars given by a person under section 25 are false, the inquirer may require the person to produce evidence of the correctness of the particulars.

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‘(2) The inquirer may also require a person who is required to provide particulars under section 25 to complete and sign a statement of the particulars in the approved form.

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‘Offences relating to particulars

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‘25B.(1) A person must not fail, without reasonable excuse—

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(a) to give particulars required under section 25; or

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(b) to produce evidence of the correctness of particulars required under section 25A(1); or

12

13

(c) to complete and sign a statement required under section 25A(2).

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Maximum penalty—1 penalty unit.

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‘(2) A person does not commit an offence against subsection (1), despite a failure to do an act required by the subsection, if the person—

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(a) has not, at the time of the failure, attended the exhibiting of the ‘MA’ or ‘R’ film concerned; and

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(b) leaves the theatre immediately after the failure.

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‘(3) A person must not provide false or misleading—

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(a) particulars in response to a requirement under section 25; or

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(b) evidence in response to a requirement under section 25A(1); or

23

(c) particulars in a statement given in response to a requirement under 25A(2).

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Maximum penalty—5 penalty units.

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‘Person may be required to leave theatre

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‘25C.(1) An exhibitor or an exhibitor’s employee or agent (the **“refuser”**) may refuse to admit a person to a theatre, or may require a

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person to leave a theatre, if the refuser believes on reasonable grounds—	1
(a) that the exhibitor would commit an offence if the exhibitor allowed the person to be, or to continue to be, present in the theatre; or	2 3 4
(b) that the person has committed an offence against section 25B.	5
‘(2) A person must not—	6
(a) enter, or attempt to enter, a theatre after being refused entry under subsection (1); or	7 8
(b) fail to leave a theatre after being required to leave under subsection (1).	9 10
Maximum penalty—5 penalty units.’.	11

Amendment of s.30 (Display of information about classification) 12

<i>Clause 11.</i> (1) Section 30(1)—	13
omit ‘or distributes’.	14
(2) Section 30(1)—	15
omit ‘or distribute’.	16

Replacement of ss.31–33 17

<i>Clause 12.</i> Sections 31 to 33—	18
omit, insert—	19

‘Classified films containing advertisements for other films 20

‘31. A person must not sell or display for sale, or attempt to sell or display for sale, a classified film that contains an advertisement relating to—	21 22
(a) if the film is classified as a ‘G’ film—a film classified as a ‘PG’, ‘M’, ‘MA’ or ‘R’ film or an unclassified film; or	23 24
(b) if the film is classified as a ‘PG’ film—a film classified as an ‘M’, ‘MA’ or ‘R’ film or an unclassified film; or	25 26
(c) if the film is classified as an ‘M’ film—a film classified as an ‘MA’ or ‘R’ film or an unclassified film; or	27 28

(d) if the film is classified as an ‘MA’ film—a film classified as an ‘R’ film or an unclassified film; or	1 2
(e) if a film is classified as an ‘R’ film—an unclassified film.	3
Maximum penalty—10 penalty units.	4
‘Display for sale of ‘MA’ or ‘R’ film	5
‘32. A person who displays, or attempts to display, for sale—	6
(a) a film classified as an ‘MA’ or ‘R’ film; or	7
(b) an advertisement for a film classified as an ‘MA’ or ‘R’ film;	8
must comply with the conditions that may be prescribed by regulation for the purposes of this section.	9 10
Maximum penalty—10 penalty units.	11
‘Sale of ‘MA’ or ‘R’ film to certain minors prohibited	12
‘33.(1) A person must not sell or deliver, or attempt to sell or deliver, a film classified as—	13 14
(a) an ‘MA’ film—to a minor who has not reached 15 years unless the minor is accompanied by an adult; or	15 16
(b) an ‘R’ film—to a minor.	17
Maximum penalty—20 penalty units.	18
‘(2) A person does not commit an offence against subsection (1)(a) if the person or the person’s employee or agent believes on reasonable grounds that the minor concerned has reached 15 years or is accompanied by an adult.	19 20 21 22
‘(3) A person does not commit an offence against subsection (1)(b) if the person or the person’s employee or agent believes on reasonable grounds that the minor concerned has reached 18 years.	23 24 25
‘(4) A person does not commit an offence against subsection (1) if—	26
(a) the minor concerned is employed by a person in a business of selling films; and	27 28
(b) the delivery takes place in the course of the employment.’.	29

Amendment of s.34 (Display and sale of unclassified films prohibited)	1
<i>Clause 13.(1)</i> Section 34 (penalty, paragraphs (b), (c) and (d))—	2
<i>renumber</i> as paragraphs (c), (d) and (e) respectively.	3
(2) Section 34 (after paragraph (a))	4
<i>insert</i> —	5
‘(b) in the case of a film that, if it were classified, would be classified as an ‘MA’ film—7 penalty units; or’.	6
	7
Amendment of s.41 (Possession of objectionable film)	8
<i>Clause 14.(1)</i> Section 41(1)—	9
<i>omit</i> ‘or distribution’.	10
(2) Section 41(3) (after ‘Maximum penalty—’)	11
<i>insert</i> ‘150 penalty units or’.	12
Amendment of s.60 (Evidentiary provisions)	13
<i>Clause 15.</i> Section 60 (after subsection (2))—	14
<i>insert</i> —	15
‘ (3) In a proceeding, a document purporting to be, or to contain, a delegation signed by the films classification officer for the purpose of section 4A is evidence of—	16
	17
	18
(a) the delegation; and	19
(b) the chief executive’s approval of the person to whom the delegation is made.’.	20
	21
Amendment of s.65 (Regulations)	22
<i>Clause 16.(1)</i> Section 65(2)(b)—	23
<i>omit</i> ‘or distribute’.	24
(2) Section 65(4)—	25
<i>omit</i> ‘, sale or distribution’, <i>insert</i> ‘or sale’.	26

Insertion of new s.66	1
<i>Clause 17.</i> After section 65—	2
<i>insert—</i>	3
‘Chief executive may approve forms	4
‘66.(1) The chief executive may approve a form for use under this Act.	5
‘(2) A person may request the chief executive to give the person a document setting out a form approved under subsection (1).	6 7
‘(3) The chief executive must promptly comply with a request under subsection (2).’.	8 9
Replacement of Part 9 (Repeals, Savings and Transitional)	10
<i>Clause 18.</i> Part 9—	11
<i>omit, insert—</i>	12
‘PART 9—SAVINGS AND TRANSITIONAL PROVISIONS	13
PROVISIONS	14
‘Existing regulations	15
‘67. A regulation in force immediately before the commencement of this section continues to have effect after the commencement as if it had been made immediately after the commencement.	16 17 18
‘Transitional provisions relating to ‘MA’ films	19
‘68. A film that, between 1 May 1993 and the commencement of this section, is classified—	20 21
(a) as an ‘M’ film under section 9; and	22
(b) as an ‘MA’ film under the <i>Classification of Publications and Films Act</i> of the Northern Territory;	23 24
is, after the commencement, taken to be classified as an ‘MA’ film under this Act.’.	25 26

SCHEDULE	1
MINOR AMENDMENTS	2
section 3	3
1. Section 3 (definition “child abuse film”)—	4
<i>omit</i> ‘the age of’.	5
2. Section 3 (definition “objectionable film”, paragraph (b))—	6
<i>omit</i> ‘the age of’.	7
3. Section 4(1)—	8
<i>omit</i> ‘of the department’ (1st occurring).	9
4. Section 4(3)(b)—	10
<i>omit</i> ‘a form approved by the chief executive’,	11
<i>insert</i> ‘the approved form’.	12
5. Section 9(1)(b) and (c)—	13
<i>omit</i> ‘the age of’.	14
6. Section 9(2)(c)—	15
<i>omit</i> ‘the age of’.	16
7. Section 10(2)(b)—	17
<i>omit</i> ‘the age of’.	18

SCHEDULE (continued)

8. Section 23—	1
<i>omit</i> ‘attained the age of’ (wherever occurring), <i>insert</i> ‘reached’.	2
9. Section 23(2)—	3
<i>omit</i> ‘is not guilty of’, <i>insert</i> ‘does not commit’.	4
10. Section 24—	5
<i>omit</i> ‘attained 15 years of age’, <i>insert</i> ‘reached 15 years’.	6
11. Section 65(1)—	7
<i>omit, insert—</i>	8
‘ 65.(1) The Governor in Council may make regulations for the purposes of this Act.’.	9
	10
12. Schedule 2—	11
<i>omit.</i>	12
	13