



Classification of Computer Games and Images Act 1995

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Queensland

Classification of Computer Games and Images Act 1995

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Classification of Computer Games and Images Act 1995

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

Part 1 Preliminary

1 Short title

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

2 Commencement

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

2A Application of Act

- (1) This Act does not apply to a computer game that is an exempt computer game.
- (2) Also, this Act does not apply in relation to a relevant showing of a computer game to the extent the computer game is subject to a conditional cultural exemption in relation to the relevant showing.

3 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Part 2 **Classification of computer games**

8A **Calling in computer game for reclassification by board**

- (1) This section applies if—
 - (a) the board proposes to reclassify a computer game under the Commonwealth Act, section 39; and
 - (b) the publisher of the computer game resides in Queensland or has an office in Queensland.
- (2) The director may, by written notice given to the publisher, require the publisher to submit a copy of the computer game for the purpose of reclassifying it.
- (3) The publisher must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.
- (4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not have a copy of the computer game.

8B **Obtaining copies for review**

- (1) This section applies if—
 - (a) an application is made for a review of a classification decision under the Commonwealth Act by a person who is not the original applicant for classification of the computer game concerned; and
 - (b) the board or review board does not have a copy of the computer game and a copy is not available to it; and
 - (c) the original applicant or the publisher of the computer game resides in Queensland or has an office in Queensland.
- (2) The convenor may, by written notice given to the original applicant or publisher, require the original applicant or

publisher to make a copy of the computer game available for the purpose of the review.

- (3) A person to whom the notice is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not have a copy of the computer game.

8C Calling in unclassified computer game for classification

- (1) This section applies if—

- (a) the director has reasonable grounds to believe an unclassified computer game is not an exempt computer game; and
- (b) the computer game is being published in Queensland, or the director has reasonable grounds to believe the computer game will be published in Queensland; and
- (c) if the computer game is being published in Queensland—the computer game is not subject to a conditional cultural exemption in relation to the publication.

- (2) The director may, by written notice given to the publisher of the computer game, require the publisher to submit an application for classification of the computer game.

- (3) The notice has effect only if it is published in the Commonwealth gazette.

- (4) The publisher must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

- (5) It is a defence to a prosecution for an offence against subsection (4) for the defendant to prove that the defendant did not intend—

- (a) to publish the computer game in Queensland; or

- (b) to cause, authorise, permit or license the computer game to be published in Queensland.

Part 3 Demonstration of computer games

9 Prohibition against demonstration of unclassified computer game

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

Maximum penalty—

- (a) 5 penalty units for a computer game that, if it were classified, would be classified as a G, PG or M computer game; or
 - (b) 20 penalty units for a computer game that, if it were classified, would be classified as an MA 15+ computer game; or
 - (c) 50 penalty units for a computer game that, if it were classified, would be classified as an R 18+ computer game; or
 - (d) 150 penalty units or imprisonment for 1 year for a computer game that, if it were classified, would be classified as an RC computer game.
- (2) Subsection (1) applies to a computer game published before the commencement of this Act only if the game is an objectionable computer game.

10 Restriction on public demonstration of MA 15+ or R 18+ computer game

- (1) A person must not demonstrate, or attempt to demonstrate, in a public place an MA 15+ computer game if a minor 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 minor is at least 15 years or is accompanied by an adult when the game is demonstrated.
 - (3) A person must not demonstrate, or attempt to demonstrate, in a public place an R 18+ computer game if a minor is present.
Maximum penalty—50 penalty units.
 - (4) A person does not commit an offence against subsection (3) if the person reasonably believes the minor is at least 18 years.
 - (5) A person must not demonstrate, or attempt to demonstrate, in a public place an MA 15+ or R 18+ computer game unless the determined markings for the game are displayed before the game is demonstrated.
Maximum penalty—40 penalty units.
 - (6) Subsection (7) applies if—
 - (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes a classification for a computer game under the Commonwealth Act, section 22B(3) or 22CH(1).
 - (7) Display of the determined markings that applied to the computer game before the reclassification or revocation is sufficient compliance with subsection (5) for the 30-day period after the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

10AA Restriction on private demonstration of R 18+ computer game

A person must not demonstrate, or attempt to demonstrate, an R 18+ computer game in a place that is not a public place in the presence of a minor unless the person is a parent or guardian of the minor or has the consent of a parent or guardian of the minor.

Maximum penalty—50 penalty units.

10A Prohibition against demonstration of certain classified computer games

- (1) A person must not demonstrate, or attempt to demonstrate, a classified computer game in a public place unless it is demonstrated with the same title as the title under which it is classified.

Maximum penalty—20 penalty units.

- (2) A person must not demonstrate, or attempt to demonstrate, a classified computer game in a public place unless it is demonstrated in the form, without alteration or addition, in which it is classified.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply in relation to an alteration or addition of a computer game that consists of a modification mentioned in the Commonwealth Act, section 20A(2)(a), (d) or (e) or 21(2)(a), (b), (ba) or (3).

10B Computer game available for playing on pay and play basis to bear determined markings and consumer advice

- (1) A person must not make a computer game available for playing on a pay and play basis unless the device used for playing the game bears the determined markings for the game's classification and any consumer advice for the game.

Maximum penalty—10 penalty units.

Example of game available on a pay and play basis—

a coin operated arcade game

- (2) If 2 or more computer games are available for playing on a device mentioned in subsection (1), the determined markings and consumer advice to be displayed on the device are those relevant to the computer game with the higher or highest classification under the Commonwealth Act.

- (3) Subsection (4) applies if—

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

12 Advertisement to contain determined markings and consumer advice

- (1) A person must not publish an advertisement for a classified computer game unless its determined markings and consumer advice (if any) are—

- (a) contained in the advertisement; and
- (b) displayed—
 - (i) in the way determined under the Commonwealth Act; and

Note—

See the Commonwealth Act, section 8.

- (ii) so they are clearly visible, having regard to the advertisement's size and nature.

Maximum penalty—10 penalty units.

- (2) Subsection (3) applies if—
- (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes—
 - (i) a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3); or
 - (ii) a classification for a computer game under the Commonwealth Act, section 22CH(1).
- (3) Display of the determined markings and consumer advice that applied to the computer game before the reclassification or

revocation is sufficient compliance with subsection (1) for the 30-day period after the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

13 False advertising of computer games

- (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 Commonwealth Act or this Act.

Maximum penalty—60 penalty units.

- (2) Subsection (3) applies if—
- (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes a classification for a computer game under the Commonwealth Act, section 22B(3) or 22CH(1).
- (3) Indicating the computer game has the classification that applied to the computer game before the reclassification or revocation is sufficient compliance with subsection (1) for the 30-day period after the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

- (4) 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.

13A Prohibition against advertising certain computer games

A person must not publish, or attempt to publish, an advertisement for an unclassified computer game, unless the advertisement is allowed under the Commonwealth Act.

Maximum penalty—60 penalty units.

Note—

The Commonwealth Act, section 31 provides for the Commonwealth Minister, by legislative instrument, to determine a scheme for the advertising of unclassified computer games.

13B Power to require certain advertisements to be submitted for approval

- (1) The director may, by written notice given to the publisher of a computer game that is being published in Queensland, or that the director reasonably believes will be published in Queensland, require the publisher to submit to the board for approval a copy of each advertisement used or intended to be used in connection with the publication.
- (2) A person to whom a notice under this section is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

13C Defence to prosecution under s 13B

It is a defence to a prosecution for an offence under section 13B, in relation to a computer game the director reasonably believes will be published in Queensland, for the defendant to prove that the defendant did not intend to publish, or authorise or cause someone else to publish, the publication in the State.

14 Markings and consumer advice on containers

- (1) 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 and its consumer advice (if any).

Maximum penalty—10 penalty units.

- (2) Subsection (3) applies if—
- (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes—
 - (i) a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3); or
 - (ii) a classification for a computer game under the Commonwealth Act, section 22CH(1).
- (3) Bearing the determined markings and consumer advice that applied to the computer game before the reclassification or revocation is sufficient compliance with this section for the 30-day period after the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

15 Display of classifications notices

- (1) A person who sells, or attempts to sell, a classified computer game in a public place must keep a classifications notice for computer games displayed prominently in the public place so it is clearly visible to the public.

Maximum penalty—10 penalty units.

- (2) In this section—

classifications notice, for computer games, means a notice in the form approved under the Commonwealth Act, section 8A about classifications for computer games.

16 Classified computer games containing advertisements for other computer games

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 PG, M, MA 15+ or R 18+ computer game or an objectionable computer game; or
- (b) if the computer game is classified as a PG computer game—a computer game classified as an M, MA 15+ or R 18+ computer game or an objectionable computer game; or
- (c) if the computer game is classified as an M computer game—a computer game classified as an MA 15+ or R 18+ computer game or an objectionable computer game; or
- (d) if the computer game is classified as an MA 15+ computer game—an R 18+ or objectionable computer game; or
- (e) if the computer game is classified as an R 18+ computer game—an objectionable computer game; or
- (f) an unclassified computer game, unless the advertisement is allowed under the Commonwealth Act.

Maximum penalty—10 penalty units.

Note for paragraph (f)—

The Commonwealth Act, section 31 provides for the Commonwealth Minister, by legislative instrument, to determine a scheme for the advertising of unclassified computer games.

17 Display for sale of MA 15+ or R 18+ computer game

A person who displays, or attempts to display, for sale an MA 15+ or R 18+ computer game or an advertisement for an MA 15+ or R 18+ computer game must comply with the conditions prescribed under a regulation.

Maximum penalty—10 penalty units.

18 Restriction on sale of MA 15+ or R 18+ computer game

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

Maximum penalty—20 penalty units.

- (2) A person must not sell or deliver, or attempt to sell or deliver, an R 18+ computer game to a minor.

Maximum penalty—100 penalty units.

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

- (4) A person does not commit an offence against subsection (2) if the person reasonably believes the minor is at least 18 years.

- (5) A person does not commit an offence against subsection (1) or (2) about the delivery of a computer game if—

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

- (6) Also, a person does not commit an offence against subsection (1) or (2) about the delivery of a computer game if the person did not know, and could not reasonably be expected to have known, the item was an MA 15+ computer game or R 18+ computer game respectively.

19 Sale of unclassified computer games prohibited

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

Maximum penalty—

[s 20]

- (a) 10 penalty units for a computer game that, if it were classified, would be classified as a G, PG or M computer game; or
 - (b) 50 penalty units for a computer game that, if it were classified, would be classified as an MA 15+ computer game; or
 - (c) 100 penalty units for a computer game that, if it were classified, would be classified as an R 18+ computer game; or
 - (d) 150 penalty units for a computer game that has been, or would have been, classified RC.
- (2) Subsection (1) applies to a computer game published before the commencement of this Act only if the game is an objectionable computer game.

20 Sale of improperly marked unclassified computer games prohibited

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.

21 Sale of improperly marked classified computer games

- (1) 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 the Commonwealth Act.

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

- (2) Subsection (3) applies if—
 - (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes a classification for a computer game under the Commonwealth Act, section 22B(3) or 22CH(1).
- (3) Indicating the computer game has the classification that applied before the reclassification or revocation is sufficient compliance with subsection (1) for the 30-day period after the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

21A Prohibition against selling certain classified computer games

- (1) A person must not sell a classified computer game in a public place unless it is sold with the same title as the title under which it is classified.
Maximum penalty—60 penalty units.
- (2) A person must not sell a classified computer game in a public place unless it is sold in the form, without alteration or addition, in which it is classified.
Maximum penalty—60 penalty units.
- (3) Subsection (2) does not apply in relation to an alteration or addition of a computer game that consists of a modification mentioned in the Commonwealth Act, section 20A(2)(a), (d) or (e) or 21(2)(a), (b), (ba) or (3).

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.

27 Making objectionable computer game

- (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—1000 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.

28 Obtaining minor for objectionable computer game

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.

29 No liability in certain circumstances

A person is not guilty of an offence against section 26 or 27 in relation to an objectionable computer game of the kind other than that mentioned in the definition *objectionable computer game* paragraph (a)(ii) or (iii) if—

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

30 Appointment of inspectors

- (1) The chief executive may appoint any of the following persons to be an inspector—
 - (a) a public service officer;
 - (b) a police officer.

Note—

A proposed appointment of a police officer must have the approval of the commissioner of the police service under the *Police Powers and Responsibilities Act 2000*, section 13.

- (2) The chief executive may appoint a person mentioned in subsection (1)(a) to be an inspector only if the chief executive believes the person has the necessary expertise or experience to be an inspector.

31 Terms of appointment of inspectors

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

32 Identity cards

- (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.
- (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.

33 Production or display of inspector's identity card

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

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

34 Entry to place by inspectors

- (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.

35 Consent to entry

- (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 acknowledgement of the consent.
 - (4) The acknowledgement 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 acknowledgement 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 acknowledgement 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.

36 Warrants

- (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.

37 Warrants—applications made other than in person

- (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.

38 General powers after entering places

- (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.

39 Entry and search of vehicles etc.

- (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.

40 Power to enable vehicle to be entered

- (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

41 Power to seize evidence

- (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.

42 Additional power of inspector to seize computer games

- (1) This section applies if—
 - (a) a person makes representations to an inspector about a computer game; and
 - (b) the inspector reasonably believes the computer game is an objectionable computer game.
- (2) The inspector may seize the computer game from any public place when the place is open to the public.
- (3) An inspector who seizes a computer game under subsection (2) must, as soon as practicable, submit the computer game to the board for classification.
- (4) If a computer game seized under subsection (2) is classified as a G, PG, M, MA 15+ or R 18+ computer game, the inspector must, as soon as practicable after it is classified, return the computer game to the person who appears to be entitled to it.

43 Powers supporting seizure

- (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—

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- (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.

44 Receipt for seized things

- (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).

45 Return of seized things

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

- (a) 1 year; or
 - (b) if a proceeding for an offence involving it is started within the year—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.

46 Access to seized things

- (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

47 Power to require name and address

- (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.

49 Power to require information

- (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 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.

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- (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

50 False or misleading statements

- (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.

51 Obstructing inspector

- (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; and

- (c) if the person continues or repeats the conduct, a police officer may be asked to help enforce this section.

53 Impersonating inspectors

A person must not pretend to be an inspector.

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

54 Inspector to give notice of damage

- (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.

55 Compensation

- (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 8 Miscellaneous

62 Evidentiary provisions

- (1) This section applies to a proceeding under this Act.
- (2) The appointment or power of 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 director or convenor is evidence of the signature it purports to be.
- (4) A document purporting to be a certificate given by the director or the convenor under the Commonwealth Act, section 25 or 87 and stating any of the following matters is evidence of the matter—
 - (a) whether a stated computer game has been classified;

- (b) if a stated computer game has been classified—the classification given to the computer game;
- (c) whether a stated advertisement has been approved, or refused approval, under the Commonwealth Act, section 29.

63 Indictable offences and summary offences

- (1) An offence against section 28 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.
- (4) A complaint under the *Justices Act 1886* for a summary offence against this Act may be made only by a person authorised in writing by the Minister.
- (5) For subsection (4), the Minister may authorise a person either generally or in relation to a stated complaint.

64 Forfeiture

- (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.

65 Dealing with forfeited things

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.

66 Particular computer games and advertisements not indecent or obscene

- (1) A classified computer game and an approved advertisement for the game are not indecent or obscene material for the purposes of the Criminal Code.
- (2) Subsection (1) does not apply to a computer game classified RC.
- (3) Also, to the extent a computer game is subject to a conditional cultural exemption in relation to a relevant showing, the computer game is not indecent or obscene material for the purposes of the Criminal Code.

67 Regulation-making power

- (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.

69 Chief executive may approve forms

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

69A Protection of officials from criminal liability

- (1) An official is not criminally liable for an act done honestly and without negligence in the performance of the official's functions under this Act.
- (2) In this section—
official means any of the following persons—
 - (a) the convenor;
 - (b) the director;
 - (c) an inspector;
 - (d) a public service employee assisting a person mentioned in paragraph (c).

Part 9 Transitional provisions

Division 1 Tourism, Fair Trading and Wine Industry Development Legislation Amendment Act 2005

70 Conversion of particular classifications of computer games to equivalent new classifications

- (1) This section applies if, immediately before the commencement of this section, a computer game had a classification (the *original classification*) under this Act mentioned in column 1 of the following table—

Table

Column 1	Column 2
G(8+)	PG
M(15+)	M
MA(15+)	MA 15+

Table

Column 1

Column 2

R

R 18+

X

X 18+

- (2) From the commencement, the computer game is taken to have the classification under this Act set out opposite the original classification in column 2 of the table (the *new classification*).
- (3) From the commencement, a reference in an Act or a document to an original classification may, if the context permits, be taken to be a reference to the new classification.
- (4) A change from an original classification to the new classification does not affect a proceeding for an offence alleged to have been committed before the commencement, whether the proceeding is started before or after the commencement, in relation to a computer game described by reference to the original classification.

Division 2

Justice Legislation Amendment Act 2008

71 Definitions for div 2

In this division—

amending Act means the *Justice Legislation Amendment Act 2008*, part 2.

commencement means the commencement of this section.

72 Existing appeals

- (1) This section applies to an appeal started under previous section 8 or previous section 60(2) but not ended before the commencement of this section.

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- (2) The appeal may continue and be decided as if the amending Act had not been enacted.
- (3) In this section—
previous, followed by a provision number, means the provision as in force immediately before the commencement.

73 Existing entitlements to appeal

- (1) This section applies if, immediately before the commencement—
 - (a) a person was entitled to appeal against a decision mentioned in section 8 or 60(2) (the *relevant provision*) and had not started the appeal; and
 - (b) the period mentioned in the relevant provision for starting the appeal had not ended.
- (2) This Act as amended by the amending Act applies to the appeal.

74 Existing proceedings for offences relating to advertisements for computer games

- (1) This section applies if a proceeding for an offence against a provision of part 4 was started, but had not ended, before the commencement of the amending Act, section 14(3).
- (2) Despite the Criminal Code, section 11, the proceeding may continue, and the provision may be enforced, as if the amending Act, section 14(3) had not been enacted.

Division 3 Classification of Computer Games and Images and Other Legislation Amendment Act 2013

75 Definitions for div 3

In this division—

commencement means the commencement of this section.

film see the Commonwealth Act, section 5.

76 Classification or reclassification under ss 5 and 6

- (1) This section applies to a film if—
 - (a) immediately before the commencement, the film was a computer game under this Act; and
 - (b) classification under section 5, or reclassification under section 6, of the film was started but not completed before the commencement.
- (2) The classification or reclassification may be decided as if the film were still a computer game under this Act.
- (3) For the *Classification of Films Act 1991*, the film is taken to have the classification decided under this section.

77 Classification applying to particular films

- (1) This section applies to a film that, immediately before the commencement—
 - (a) was a computer game under this Act; and
 - (b) had a classification G, PG, M, MA 15+ or RC that was given under this Act.
- (2) For the *Classification of Films Act 1991*, the film is taken to have the classification mentioned in subsection (1)(b).
- (3) Subsection (2) stops applying if the film is classified under the Commonwealth Act.

78 Applications for exemption under s 57

- (1) This section applies if—
 - (a) an application for an exemption under section 57 was made before the commencement for a film that,

- immediately before the commencement, was a computer game under this Act; and
- (b) the application was not decided before the commencement.
- (2) The application may be decided as if the film were still a computer game under this Act.
- (3) If an exemption is given, the exemption is taken, for the *Classification of Films Act 1991*, to be an exemption given under section 58 of that Act.

79 Applications for exemption under s 59

- (1) This section applies if—
- (a) an application for an exemption under section 59 was made before the commencement for a film that, immediately before the commencement, was a computer game under this Act; and
- (b) the application was not decided before the commencement.
- (2) The application may be decided as if the film were still a computer game under this Act.
- (3) If an exemption is given, the exemption is taken, for the *Classification of Films Act 1991*, to be an exemption given under section 59A of that Act.

80 Existing exemptions under ss 58 and 59

- (1) This section applies if an exemption is given under section 58 or 59 before the commencement for a film that, immediately before the commencement, was a computer game under this Act.
- (2) For the *Classification of Films Act 1991*, the exemption is taken to have been given under section 58 or 59A of that Act respectively.

- (3) If the exemption is subject to a condition, the exemption remains subject to the condition.

81 Entitlement to review by QCAT

- (1) This section applies if, immediately before the commencement, a person could have applied to QCAT for the review of a decision in relation to a film that, immediately before the commencement, was a computer game under this Act.
- (2) The application may be made and decided as if the film were still a computer game under this Act.
- (3) For the *Classification of Films Act 1991*—
 - (a) the film is taken to have any classification decided under this section by QCAT; and
 - (b) an exemption given by QCAT under section 58 or 59 is taken to have been given under section 58 or 59A of the *Classification of Films Act 1991* respectively.

82 Review by QCAT

- (1) This section applies if an application for the review of a decision under section 8 or 60 is made but not decided before the commencement of this section in relation to a film that, immediately before the commencement, was a computer game under this Act.
- (2) The application may be decided as if the film were still a computer game under this Act.
- (3) For the *Classification of Films Act 1991*—
 - (a) the film is taken to have any classification decided under this section by QCAT; and
 - (b) an exemption given by QCAT under section 58 or 59 is taken to have been given under section 58 or 59A of the *Classification of Films Act 1991* respectively.

Division 4 Court and Civil Legislation Amendment Act 2017

83 Definition for division

In this division—

repealed, if followed by a provision number, means the provision of that number as in force from time to time before the commencement.

84 Classification of computer games under repealed s 5

- (1) This section applies in relation to a computer game that, immediately before the commencement, had a classification (the *earlier classification*) given under repealed section 5.
- (2) From the commencement, the following are taken to have been given under the Commonwealth Act—
 - (a) the earlier classification of the computer game;
 - (b) any consumer advice (the *earlier consumer advice*) for the computer game determined under the Commonwealth Act, section 20, as applied under repealed section 5(3).
- (3) However, if the computer game is later classified, the earlier classification and the earlier consumer advice stop having effect from when the later classification takes effect.

85 Application of particular modifications of computer games for ss 10A and 21A

To remove any doubt, it is declared that, for sections 10A(3) and 21A(3), an alteration or addition of a computer game may consist of a modification mentioned in the Commonwealth Act, section 20A(2)(a), (d) or (e) or 21(2)(ba) or (3) only if the computer game is classified on or after 1 January 2013.

Note—

See the *Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Act 2014* (Cwlth), schedule 4, part 2.

86 Ending of exemptions given under repealed s 58 or 59

- (1) This section applies if, immediately before the commencement, an exemption given under either of the following provisions was in force for an entity—
 - (a) repealed section 58;
 - (b) repealed section 59.
- (2) On the commencement, the exemption ends.

Schedule 2 Dictionary

section 3

advertisement, for a computer game, has the meaning given by the Commonwealth Act, section 5, definition *advertisement*, to the extent the definition relates to an advertisement for a computer game.

approved form means a form approved by the chief executive.

at a place includes in or on the place.

board means the Classification Board established under the Commonwealth Act.

child abuse computer game means a computer game that is an objectionable computer game because it depicts a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way likely to cause offence to a reasonable adult.

classified means classified or reclassified under the Commonwealth Act.

Commonwealth Act means the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth).

Commonwealth gazette means the Commonwealth of Australia gazette.

computer game see the Commonwealth Act, section 5A.

consumer advice means the consumer advice about the computer game decided by the board under the Commonwealth Act.

Note—

Under the Commonwealth Act, section 22CF(5), particular consumer advice determined by an approved classification tool is taken to be consumer advice determined by the board under section 20 of that Act.

convenor means the convenor of the review board.

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 the markings determined under the Commonwealth Act.

director means the director of the board.

exempt computer game see the Commonwealth Act, section 5.

inspector means a person appointed to be an inspector under section 30(1).

objectionable computer game—

- (a) means a computer game, or an advertisement for a computer game, that—
- (i) 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
 - (ii) depicts a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way likely to cause offence to a reasonable adult; or
 - (iii) promotes, incites or instructs in matters of crime or violence; or
 - (iv) for a computer game—is classified RC; or
 - (v) for an advertisement—is refused approval under the Commonwealth Act, section 29; but
- (b) does not include a computer game that is classified, or if it were classified, would be classified, as an R 18+ computer game.

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.

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.

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.

relevant showing has the meaning given by the Commonwealth Act, sections 6C and 6E.

review board see the Commonwealth Act, section 5.

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).

subject to a conditional cultural exemption has the meaning given by the Commonwealth Act, section 5.

vehicle includes an aircraft and a ship.