

**CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES)
ENFORCEMENT AMENDMENT BILL 2012**

Receipt and First Reading

Bill received from the Council; and, on motion by **Mr J.H.D. Day (Minister for Planning)**, read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR J.H.D. DAY (Kalamunda — Minister for Planning) [3.51 pm]: I move —

That the bill be now read a second time.

The bill relates to the operation of the National Cooperative Classification Scheme operated by the commonwealth, states and territories, and implements the decision made at the July 2011 meeting of the Standing Committee of Attorneys-General to introduce an R 18+ classification for computer games. It is the product of some 10 years of negotiations between the commonwealth and the states and territories. The agreement has resulted in the Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Act 2012 of the commonwealth, which I shall refer to as the commonwealth amendment act, which amended the Classification (Publications, Films and Computer Games) Act 1995 of the commonwealth, which for convenience I will refer to as the commonwealth classification act. The commonwealth amendments will come into effect on 1 January 2013.

This bill implements the necessary amendments to the Western Australian Classification (Publications, Films and Computer Games) Enforcement Act 1996—the WA enforcement act. The effect of the commonwealth classification act and this bill will be to bring the current classification categories for computer games into line with existing categories to classify films, with the exception of the X 18+ category for films, by creating a new R 18+ category for computer games. It will also align the computer-game classification categories in Australia with those in use overseas.

Presently, the highest legally available classification category for computer games is MA 15+, which means that such games are unsuitable for minors under the age of 15. Games that exceed the content permitted in this category are currently classified RC; namely, refused classification. Importantly, ministers have agreed and accepted that there is no dilution of the RC classification and RC material as defined in items 1(a), 1(b) and 1(c) of the National Classification Code will not be included in the proposed R 18+ classification. Therefore, the introduction of an R 18+ classification is a new, adults-only classification which will not include RC material that is refused classification in publications and films.

Extensive public consultation over the past two and a half years, involving the Classification Board, industry, community organisations and the general public, has shown strong support for an R 18+ classification. For instance, in 2009, the commonwealth Attorney-General's department received close to 60 000 submissions in response to a discussion paper on the matter. There was overwhelming support, with 98 per cent of respondents wanting an R 18+ classification. A national survey conducted by Galaxy Consultants in 2010 revealed that 80 per cent of the 2 226 people contacted supported the introduction of an adults-only category for games.

Before outlining the amendments to the WA enforcement act required as a result of Western Australia being a full participant in the NCCS, I will briefly remind members of how the NCCS operates. The NCCS is a cooperative arrangement between the commonwealth, states and territories that was established in 1996. Under the NCCS, publications, films and computer games are classified by the commonwealth Classification Board under the provisions of the commonwealth classification act. Material is classified in accordance with the National Classification Code and with classification guidelines that are used to interpret the code. Pursuant to the commonwealth classification act and the 1995 intergovernmental agreement, which is the foundation for the NCCS, classification guidelines may be amended only by the unanimous agreement of ministers. Work on finalising the proposed classification guidelines for computer games has now been completed. The responsible commonwealth minister has, in accordance with the commonwealth classification act, published them in the commonwealth *Government Gazette* of 26 September 2012. Under the intergovernmental agreement, responsible ministers are required to table the amended guidelines in their respective Parliaments within 30 sitting days after the guidelines are published by the commonwealth. The Attorney General, as the responsible Western Australian minister, will attend to that at the appropriate time. All states and territories then apply those classifications. However, the enforcement of those classification decisions is a matter for each state and territory under its complementary enforcement legislation.

In our state, the Western Australia Police enforce classification decisions pursuant to the WA enforcement act, which stipulates under what conditions restricted publications, films and computer games may be advertised,

sold or exhibited. Accordingly, this bill gives recognition to R 18+ computer games; prescribes various restrictions on the demonstration, display, sale or supply and advertising of R 18+ computer games; and prescribes offences and penalties, similar to those that apply to R 18+ films, which make it illegal to allow children to access adults-only computer games. I am confident that the R 18+ classification for computer games will inform parents, consumers and retailers about games that are unsuitable for children, and will prevent minors from purchasing unsuitable material.

In summary, the bill allows adults to access material while affording protection to children, and ensures that Western Australia remains an effective participant in the NCCS.

I commend the bill to the house.

MR J.R. QUIGLEY (Mindarie) [3.57 pm]: I would like to rise this afternoon to play the role of Peter with his finger in the dyke and stop the leakage of this material into our community—period. But time has moved on and that is not possible. So here we are talking about the regulation of computer games in an R 18+ category. It is there because of the depiction of violence, violent sex, drugs and the like in an entertainment format. I suppose I am giving away my age and everything else by saying that I am opposed to it. I am opposed to it not just on moral grounds but on what it has produced in our society. Whilst it is material for those aged 18 and above, once it is in the house, it is available to all members of the house. How can we stop it? I have five children who range between 29 years of age and three years of age—not that all the elder ones live with me, of course—but I know that once this material enters the house, it is not long before the younger ones get hold of it anyway. I know that relates to parental responsibility, but we have a situation in society now where we are accepting of these games to the point at which we are regulating their sale and giving notice to parents of what sort of material the game will contain, but not banning the material. I can only stand here and lament the passing of another time. I lament the passing of a time, for example, when people did not sit mindlessly at keyboards trying to inflict violence on other characters that are presented in a very lifelike facsimile on the screen, which inures the player to violence.

In past times, when I was young, we were schooled in chess. People will just laugh and scoff at me now, but it very much developed analytical and strategic thinking, and brain development, without any recourse to the violence and filth that is obtained in online material. Having said that, I know that I am a voice on the windward rail of the ship, with my words just blowing off into the distance and not heard by anyone! I would like to think I am modern enough: I have PlayStation 3 at home, which is connected to the internet via a cable connection. I have a three-metre wide theatre screen on which I can instantly browse the internet and go to any game in the world. I can play PlayStation in a darkened room, the figurines or the figures in full life-size high-definition colour and I can just get lost in the violence of it all. I can not only get lost in the violence of it all, I notice I can get lost in the time of it all, too. Hours can be absorbed in these environments. I am of the view that this all impacts upon the way people view life and interpersonal relationships. Even the Western Australian Chief Justice, in a speech he made some little while ago, said that this violence on the streets is because all the games now being played do not require any negotiation between living human beings but evoke a violent response by pushing a toggle or a button, like on my PlayStation controller. I like my PlayStation controller; it can take me to all sorts of areas of interest on the internet, but it can also take me to areas that are not conducive to the development of a peaceful and intelligent mind, which goes beyond entertainment.

I understand, as Mitt Romney understands, that America has become a different place from what he was pitching to, which was an America in the 1960s. I understand that what I am talking about probably bears no relationship at all to the way young people think now and indeed the way many young parents think now—and so it was that the state and commonwealth Attorneys General, at their conferences, agreed to this scheme. It never came into operation because one Attorney General—from South Australia—hung out against the scheme, and it required a national approach. We have to be realistic. All of this material, as I said, is available on the internet. I doubt whether in many years, even in just a few years, retailers will still be selling these games or whether it will all be just purchased over the internet. We will be explaining to our children what a video rental shop or a DVD rental shop was, because I notice that on Foxtel we can get movies on demand. It takes about 90 seconds through a cable connection.

Mr A.P. Jacob: It is like trying to explain rewinding a video to children now.

Mr J.R. QUIGLEY: That is right—rewinding a video. I would like to rewind life sometimes, member, and change a few of the rules, but I cannot! I notice with Foxtel's movies on demand I can go to "Movies on Demand", then to "Genre", and buy any movie for \$3.97. As soon as I hit "Select", there it is on the three-metre wide screen, all happening, bang, right in front of me. It is a movie on demand. The same will happen with these games; we will be able to suck them down online. These laws will be in place and be of some interest in antiquity. But I suppose we cannot swim against the tide; we cannot stop this. I am only expressing my personal views; they are not the views of the opposition. The opposition, when in government—through the former Labor

Attorney General, at this state and commonwealth Attorney Generals conference—signed us up to this. I do not criticise him for the reasons I have said. We have to send some signal out there, but I am sad that it has come to this, quite frankly. But it has come to this; so we do not oppose the legislation.

I seek to evince the government's undertaking as to proclamation during the minister's response to the second reading debate. One of the big issues in the other chamber was the commencement date. Clause 2 of the bill says that the act will come into effect upon proclamation but —

Mr P. Abetz: Wasn't that amended in the upper house?

Mr J.R. QUIGLEY: It got amended, did it?

Mr P. Abetz: Yes.

Mr J.R. QUIGLEY: I have not seen the amendment. I will go along with that. That amendment will cover my concern in that area—namely, that these laws will be effective as from 1 January 2013.

I suppose mine was not so much a bugle call but a lament—a lament that it has all come to this—but this is the way it has gone. We cannot stop it; all we can do is take sufficient steps through this Parliament to put parents on notice that what is in that box is rated by the censor as suitable only for adults. Once it comes into the household, what happens?

I was astonished the other day. One of my daughters—I have four; not my eldest daughter, she is 26, not my second eldest, but my third eldest who is five—wanted to show me something. She grabbed my iPad and quickly did a YouTube search, at the age of five, to show me Psy's "Gangnam Style"!

Mr J.M. Francis: You had to be the first person to mention that!

Mr J.R. QUIGLEY: No; but that is what she did. Then she starts her "Gangnam Style"—a bit of horse dancing in the kitchen, at the age of five! If a five-year-old can get to that, heavens above, what games will a 10-year-old be able to get to? It is a lament and not a bugle call. With those thoughts, the opposition agrees with the contents of this bill.

MR P. ABETZ (Southern River) [4.09 pm]: When I was out doorknocking prior to the 2008 election, one thing people kept saying to me was, "We need more police on the road." My response to that was, "Yes, we do, but we also need to ask ourselves the question: why do we need more police on the road?" I told people that it also depends on what is happening in our homes and schools. It depends on what we are feeding the minds of our young people and not-so-young people in terms of TV programs, movies, computer games and so on. This government has increased police funding by 25.6 per cent over the last four years even though our population has increased by only 11 per cent. We have spent \$655 million on expanding our prisons and we have recruited an extra 673 prison officers in the past four years. Law and order issues are a big issue in my electorate. Recently I went to see a young lady in my electorate who had experienced a home invasion at three o'clock on a Saturday afternoon. Elderly people feel vulnerable in our community. Yes, we need more police and prison officers, but these officers are dealing with an end result—something has gone wrong. We need to ask ourselves: why do we need more police and why do we need more prison officers? It is because of what is going on in our homes and schools and what the various media outlets are presenting as acceptable. What values are being taught implicitly and explicitly? I ask the question: do members think that allowing people access to more violent computer games will increase safety in our community—games that show stronger, more realistic and frequent violence that is unduly repetitive? Do members think it will make young women safer in our streets by making available games which until now have not been available and which show more implied sexual violence than is allowed today, or games which until now have not been available and which depict simulated sexual activity that is not explicit or realistic? Of course, these things will not make our communities safer, yet a bill that was passed in the upper house last night and is now before us will make such computer games available for purchase in Western Australia by 18-year-olds in our community come 1 January 2013.

Since 2002 our state has fully participated in the national cooperative classification scheme. Our state has delegated the power to classify computer games to the commonwealth. I certainly agree that a uniform system of classification for the country is desirable, and the commonwealth has decided to introduce an R 18+ classification for computer games as of 1 January 2013. We were told that part of the reason for it was that some of the MA 15+ computer games would move into that category. It remains to be seen whether that happens. But the reality is that games that have been refused classification until now will become available.

The state of Western Australia still has the power to make laws regarding the enforcement of rules surrounding R 18+ classified games. We used that power in this place to prohibit or restrict the sale, supply or demonstration of X 18+ classified movies. When that classification was brought in by the commonwealth, only the Northern Territory and the Australian Capital Territory allowed them to be sold. We, as a state, and the other states said no, we would not allow them to be sold in our respective states.

I am in an invidious position. If I oppose the bill, anyone will be able to buy R 18+ games—a five-year-old could go into a shop and buy those games—after 1 January. If I vote in favour of the bill, I will be seen to be supporting the introduction of R 18+ computer games —

Mr J.R. Quigley: Or, member, they can buy it over the internet and have it posted to them.

Mr P. ABETZ: That is certainly a possibility. That also applies to the X 18+ movies. There is that mail order business in Canberra that sends those horrific porn things all over the country, but it requires more effort to get them than it does for a person to just walk into a shop and buy them. However, as the member for Mindarie mentioned, with downloading from the internet, it will become so much easier. But, eventually, I guess we could also look at this issue as we look at pornography. To be in possession of child pornography is an offence, and we could also say that to be in possession of games that show certain images could become an offence.

I just want to flag to the house that, as members of this house on both sides of politics, we need to pay attention to the consequences that flow from passing bills such as these because, by passing a bill such as this, we are actually saying that we think it is okay for people to play those kinds of games. I certainly appreciate the fact that people can download them from the internet. They can pay with a credit card and get them on their computer and so on. But, as a Parliament, what we say in this place about the laws that we pass does, in a sense, set a benchmark for what we as a Parliament consider is acceptable. Somewhere along the line, we need to draw a line in the sand. This seemingly innocuous bill will have significant social costs. It may be a very small social cost, but all the little social costs keep adding up and result in us needing more police and more prison officers. Our society becomes less safe and we ask ourselves: what is going on? Members, we know what is going on. We know that we are allowing our society to become more violent by normalising these games that until now have been refused classification in this country—that means they are not allowed to be sold. Why do we need this legislation? No-one will benefit other than those who sell these games.

MR A.J. WADDELL (Forrestfield) [4.16 pm]: I rise to speak as someone who actually lives in the twenty-first century, rather than a person who has the views of the twentieth century that we have heard to date. Firstly, let us get one thing 100 per cent clear: these titles are available right now at the click of a finger. I would like to let the member for Southern River know that if I wanted to get triple-rated pornography, I could get that at the click of a finger as well. Anything that we do in this chamber is merely symbolic and does not in fact have any effect on people's capacities. The horse has bolted; this is a reality of today. So, we have to ask ourselves the question: when we are dealing with the reality of something being out there, rather than sticking our heads in the sand and pretending that we can stop the oncoming onslaught, what do we do? The best thing we can do is forewarn and forearm people to deal with that problem. This legislation will allow a rating system to be applied to games, which will allow parents to determine the appropriateness of a game for their children; that is it. As opposed to it being pulled in from overseas —

Dr J.M. Woollard: It's 18+.

Mr A.J. WADDELL: It is 18+; that is right.

Dr J.M. Woollard: Up till now they could get only 15+ —

Mr A.J. WADDELL: Exactly. Those games that are 18+ are here right now. I can tell the member that they are sitting on my shelf at my house. The reality is that the majority of gamers are in fact over 18 years of age. It is now a pastime that is very popular with people well into their 40s. It is not a child's situation any longer. The top titles make more money today than the best Hollywood blockbuster will. The simple reason is that people with a disposable income are buying those games. To pretend that we can say we do not want that and that we are going to stick our heads in the sand and somehow affect that is utter nonsense. Frankly, I subscribe to the view that what consenting adults do in their own home is entirely up to them, be it reading a book, watching a video or playing a video game. The stuff we are hearing in here is the sort of stuff that would have banned *Lady Chatterley's Lover* from the bookshelves back in its day.

Dr K.D. Hames: *Fifty Shades of Grey*.

Mr A.J. WADDELL: Yes, we would be banning *Fifty Shades of Grey*—seriously. It is puritanism that, frankly, I thought had long passed. The reality is that I am raising a child who is just about to go into her teens. She was playing a game that was purchased via the Apple store; I do not think it had a rating above 12 or anything like that. The goal of this game is to evolve some bacteria in a parasite to create a disease that is so deadly that every bit of life on planet Earth is wiped out.

The ACTING SPEAKER (Mr A.P. O'Gorman): Members, it is very difficult to hear the member on his feet, even though he is speaking quite loudly. I am sure it is very difficult for Hansard to get it down correctly. There are a lot of conversations going on; I ask members to take them outside and extend the member the courtesy of allowing him to continue his speech.

Mr A.J. WADDELL: The goal of the game is to destroy life on planet Earth. This game was actually about evolution; it was about evolving particular bacteria in a certain way and giving it characteristics, yet the overall goal was to wipe out all human life on planet Earth. Is that a horrific idea? Is that something that we want to ban, or do we want to engage children in the scientific discovery of actually learning about the evolution of bacteria? I do not think we are in any position to be the moral arbiters of what is right and what is wrong in this instance. I look around the chamber and the reality is that the members who have so far spoken on the Classification (Publications, Films and Computer Games) Enforcement Bill 2012 are a bunch of old white guys, most of whom, if they have ever played a video game, played it on a Nintendo system back in the 1980s and do not have a clue about what the latest games are actually like!

I guess I do know. I have sat up all night playing *Call of Duty: Black Ops*; I have the PlayStation 3 and the Xbox 360 systems, and I am looking forward to the next generation consoles, because I for one find these games quite entertaining and relaxing. I find the idea of going into war-torn Iraq and blowing up some buildings very, very helpful after I have dealt with you lot for a day! It helps get my frustration out, rather than taking it out on the cat or however people may have taken out their frustrations in past times. The reality is that well-adjusted adults can deal with this material; the research is there.

Several members interjected.

Mr A.J. WADDELL: Non-well-adjusted people can get access to this material right now; it is a click away. BitTyrant can get people anything they want. In fact, every time Australia says, “I’m sorry; *Left 4 Dead 2* is too violent for you because you’re setting fire to the zombies,” guess what happens? The uploads spike and everyone goes, “Ooh, if it’s too violent for Australia, we better get that,” and that is the one that is out there, that is the one that is being traded, and that is the one that ends up in the playgrounds. It actually has the opposite effect of what we are trying to achieve. There was a film festival recently in, I think, Melbourne, and one of the organisers said that one of the best things that ever happened for the festival was the fact that one of the films got banned, which suddenly piqued people’s interest in coming to the festival. It is the old adage in politics; you do not draw attention to that which you do not want attention drawn to. The more we advertise it, the more people are drawn to it.

Adoption of this classification obviously brings us into step with the rest of the country, but also in step with the rest of the world. It is quite funny to read some of the online forums about video games; Australia and Germany are often laughing stocks because we had these classification systems, before we adopted the 18+ range, that required game programmers to include special levels, so that instead of a zombie spurting blood, the game was modified so that they spurted daisies or something like that, thereby getting past our censors. Of course, then a patch is leaked onto the internet to allow the original game to be played. Somebody might go out and buy the 15 game that we think is okay and the parents will say, “Yes, this has been classified as okay for my kid”. They buy it for their kid, the kid puts it in the console, and because we have created this big furore that the game is not good enough for Australia, the patch comes out and the kid ends up playing the 18+ game, which is not what the parents intended to happen.

I come back to the point that, if members think games are about kids, they are kidding themselves. It is far more likely to find a 32-year-old playing these games than a 14-year-old. I am sure I am probably not the only member in this chamber who has played those games; I am sure there are others who quite enjoy them.

Mr J.H.D. Day: They’d be much better off visiting the art gallery or going to a concert.

Mr A.J. WADDELL: Perhaps if the minister invested a little more in the art gallery there would be more people visiting it. But we can appreciate many forms of art, and we can argue about what art is until the cows come home. We need to remember that what we classify today will in 50 years be seen as archaic. What was seen as outrageous in the 1960s we now see as commonplace and not that much of a problem whatsoever. We are no longer outraged by swim suits that come above the knee! Things move on; society adapts.

The member for Southern River posed the question: why is there more violence on our streets? I share his concern, in that there does seem to be not necessarily more violence, but nastier violence. It is more in-your-face and confronting than what appears to have been the case in the past. However, I put it to the member for Southern River that one of the reasons for that is that the sorts of people who are committing those violent crimes are the very same types of people who in past times were sent off to fight in wars. The reality is that we are not culling the young anymore; we are not sending them off to a foreign battlefield to kill other people anymore, and that is why they are on our streets. That is the reality; the fact is we have not had a major conflict in a very long time. The statistics show that crime is dropping and has been dropping for a long time. The base murder rate has been dropping for a long time. We are actually a better society in many ways; we are just far better at communicating than we have ever been, so these problems are more in our faces. I honestly do not think that is about video games. The current technology has been around for only about 15 years—the really

aggressive, graphic kind of violence in games that the member referred to. Before that it was really just 8-bit, cartoonish stuff and one had to have a very active imagination to be able to work out what that little red blotch on the screen was. A lot of the trends that the member talked about date way back, prior to the current generation of games consoles. If someone were to do some research from *Hansard*, I can guarantee that debates would have occurred in this place about the effect that television had on young people and whether it made them more permissive and more violent.

Dr A.D. Buti: What about Elvis Presley?

Mr A.J. WADDELL: Absolutely!

This debate goes on and on; the reality is that this legislation will simply move us into step with the rest of the country and the rest of the world, and frankly, it is about time. I recommend the legislation to the house.

DR G.G. JACOBS (Eyre) [4.27 pm]: I do not share the view of the member for Forrestfield that one of the reasons for violence on our streets is that we no longer send our young men off to war, and that they consequently have pent-up violent emotions that they vent in the streets of our suburbs and towns. Like the member for Southern River, I have some issues with the R 18+ classification. We have heard today that for us to try to make any laws to stem the tide is actually futile because it is all available on the internet and so there is not much point in trying to put up any resistance to having our population exposed to this. Yes, I agree that we have to make some classifications to protect our young people from exposure, and I understand that there are many avenues through which they can be exposed to in-your-face violence. The member for Forrestfield used that term, and I would suggest that some of the games available in video shops that are being played by young people and adults are, indeed, in your face. In particular, there was some concern by many of us on this side of the house—about 10 or 12 of us—about the R 18+ classification and the effect it would have in scalping some of the refused classification and putting it into the R 18+ classification. There has been some reassurance—it is not exactly overly reassuring—that there will be no dilution.

Debate adjourned, pursuant to standing orders.