

# Censorship Amendment Bill 2005

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Western Australia

LEGISLATIVE ASSEMBLY

*(As amended in Committee)*

## **Censorship Amendment Bill 2005**

**A Bill for**

**An Act to amend the *Censorship Act 1996* and for related purposes.**

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Censorship Amendment Act 2005*.

### **2. Commencement**

- 5 (1) This Act, other than Part 4, comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.
- (3) Part 4 is deemed to have come into operation on 26 May 2005.

10 **3. The Act amended**

The amendments in this Act are to the *Censorship Act 1996*\* unless otherwise indicated.

[\* *Reprint 1 as at 28 November 2003.*

15 *For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1 p. 55.]*

### **4. Section 1 amended, consequential amendments, transitional and validation**

- (1) Section 1 is amended by deleting “*Censorship*” and inserting instead —
- 20 “
- Classification (Publications, Films and Computer Games) Enforcement*
- ”.
- (2) Schedule 1 sets out consequential amendments.
- 25 (3) A reference in any Act or regulation to the “*Censorship Act 1996*” shall, unless the context otherwise requires, be read and construed as a reference to the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*.

- 5 (4) The reference in the *Community Protection (Offender Reporting) Act 2004*\* Schedule 2 or the *Working with Children (Criminal Record Checking) Act 2004* Schedule 2 to the *Classification (Publications, Films and Computer Games) Enforcement Act 1996* is taken to include, and always to have included, a reference to the *Censorship Act 1996*.

[\* Act No. 72 of 2004.]

**5. Section 3 amended**

10 Section 3 is amended in the definition of “Registrar” by deleting “Censorship”.

**6. Section 128A amended**

Section 128A(1) is amended by deleting “Censorship”.

**Part 2 — Changes relating to investigation of  
child pornography**

**7. Section 117 amended**

- 5 (1) Section 117(2a)(c) is amended after “child pornography,” by  
inserting —  
“  
or an article highly likely to be, or highly likely  
to contain, child pornography,  
”.
- 10 (2) Section 117(2a) is amended by deleting “under this Part”.
- (3) Section 117(3) is amended by deleting “seized under  
section 112 or under a search warrant” and inserting instead —  
“ lawfully seized ”.
- (4) Section 117(6) is amended as follows:  
15 (a) at the end of paragraph (a) by deleting “or”;  
(b) at the end of paragraph (b) by deleting the full stop and  
inserting —  
“  
; or  
20 (c) if the court is satisfied that it is appropriate for  
a member of the police force to be given more  
time to investigate or analyse evidence relating  
to the seized thing, the court may order that the  
thing be held in the custody of the member of  
25 the police force for such further period as the  
court thinks fit.  
”.

(5) After section 117(8) the following subsection is inserted —

“

(9) In this section —

“**lawfully seized**” means lawfully seized in relation to  
an alleged offence under this Act.

”.

**8. Section 141 amended**

Section 141 is amended as follows:

(a) in paragraph (a) after “is” by inserting —

“ , or was, ”;

(b) in paragraph (a) after “are” by inserting —

“ , or were, ”;

(c) in paragraph (b) after “is” by inserting —

“ , or was, ”;

(d) in paragraph (c) by inserting after “is not” in both places  
where it occurs —

“ , or was not, ”;

(e) in paragraph (d) after “is” by inserting —

“ , or was, ”;

(f) in paragraph (d) after “approved or has” by inserting —

“ , or had, ”;

(g) in paragraph (d) after “approval or has not” by  
inserting —

“ , or had not, ”.

**Part 3 — Changes relating to infringement notices**

**9. Section 117F amended**

Section 117F is amended by inserting after “A” —

“

5 member of the police force authorised by the  
Commissioner of Police or a

”.

**10. Section 117G amended**

Section 117G(1) is amended by inserting after “A” —

“

10 commissioned officer of the police force authorised by  
the Commissioner of Police or a

”.

**11. Section 117J amended**

15 After section 117J(3) the following subsection is inserted —

“

20 (4) A member of the police force who has been authorised  
by the Commissioner of Police to extend time on, or  
withdraw, an infringement notice under section 117F  
or 117G cannot exercise either power in relation to an  
infringement notice issued by that member.

”.



## Part 4 — Classification changes reflecting national scheme

### 12. Section 3 amended

5 Section 3 is amended in the definition of “contentious material” by deleting “M (15+), MA (15+)” and inserting instead —

“ M, MA 15+ ”.

### 13. Section 57 amended

Section 57 is amended as follows:

10 (a) in paragraph (b) by deleting “MA, R or X” and inserting instead —

“ MA 15+, R 18+ or X 18+ ”;

(b) in paragraph (c) by deleting “G (8+), M (15+) or MA (15+)” and inserting instead —

“ PG, M or MA 15+ ”.

### 15 14. Section 69 amended

(1) Section 69(1) is amended by deleting “classified X” and inserting instead —

“ classified X 18+ ”.

20 (2) Section 69(2) is amended by deleting “classified X” in both places where it occurs and inserting instead —

“ classified X 18+ ”.

(3) Section 69(3) is amended by deleting “classified X” in both places where it occurs and inserting instead —

“ classified X 18+ ”.

**s. 15**

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**15. Section 70 amended**

(1) Section 70(1) is amended by deleting “R or MA” in both places where it occurs and inserting instead —

“ R 18+ or MA 15+ ”.

5 (2) Section 70(3) is amended by deleting “classified R” in both places where it occurs and inserting instead —

“ classified R 18+ ”.

**16. Section 71 amended**

10 (1) Section 71(1) is amended by deleting “X or R” in both places where it occurs and inserting instead —

“ X 18+ or R 18+ ”.

(2) Section 71(2) is amended by deleting “X or R” and inserting instead —

“ X 18+ or R 18+ ”.

15 (3) Section 71(3) is amended by deleting “classified R” and inserting instead —

“ classified R 18+ ”.

**17. Section 72 amended**

20 Section 72(1) is amended by deleting “classified MA” and inserting instead —

“ classified MA 15+ ”.

**18. Section 73 amended**

Section 73 is amended by deleting “or X” and inserting instead —

25 “ or X 18+ ”.

**19. Section 77 amended**

Section 77(1) is amended by deleting “or X” and inserting instead —

“ or X 18+ ”.

5 **20. Section 78 amended**

Section 78 is amended by deleting “classified R” in both places where it occurs and inserting instead —

“ classified R 18+ ”.

**21. Section 79 amended**

10 (1) Section 79(1) is amended by deleting “classified R” and inserting instead —

“ classified R 18+ ”.

(2) Section 79(3) is amended by deleting “X or R” and inserting instead —

15 “ X 18+ or R 18+ ”.

(3) Section 79(4) is amended by deleting “classified MA” and inserting instead —

“ classified MA 15+ ”.

20 (4) Section 79(6) is amended by deleting “classified X” in both places where it occurs and inserting instead —

“ classified X 18+ ”.

**22. Section 80 amended**

Section 80 is amended by deleting “classified X” in both places where it occurs and inserting instead —

25 “ classified X 18+ ”.

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**23. Section 81 amended**

Section 81(2) is amended as follows:

- (a) in paragraph (a) by deleting “X, R or MA” and inserting instead —  
5 “ X 18+, R 18+ or MA 15+ ”;
- (b) in paragraph (b) by deleting “classified X” and inserting instead —  
“ classified X 18+ ”.

**24. Section 85 amended**

- 10 (1) Section 85(1) is amended by deleting “MA (15+)” and inserting instead —  
“ MA 15+ ”.
- (2) Section 85(2) is amended by deleting “MA (15+)” in both places where it occurs and inserting instead —  
15 “ MA 15+ ”.
- (3) Section 85(3) is amended by deleting “MA (15+)” in both places where it occurs and inserting instead —  
“ MA 15+ ”.

**25. Section 88 amended**

- 20 Section 88(1) is amended by deleting “MA (15+)” and inserting instead —  
“ MA 15+ ”.

**26. Section 89 amended**

- 25 (1) Section 89(2) is amended by deleting “MA (15+)” and inserting instead —  
“ MA 15+ ”.

(2) Section 89(3) is amended by deleting “MA (15+)” and inserting instead —

“ MA 15+ ”.

**27. Section 91 amended**

5 Section 91(1)(b) is amended by deleting “or X” and inserting instead —

“ or X 18+ ”.

**28. Section 92 amended**

10 The Table to section 92 is deleted and the following Table is inserted instead —

“

**Table**

| <b>Item</b> | <b>Column 1<br/>Feature film</b> | <b>Column 2<br/>Advertised film</b> |
|-------------|----------------------------------|-------------------------------------|
| 1           | G                                | G                                   |
| 2           | PG                               | PG or G                             |
| 3           | M                                | M, PG or G                          |
| 4           | MA 15+                           | MA 15+, M, PG or G                  |
| 5           | R 18+                            | R 18+, MA 15+, M, PG or G           |

”.

**29. Section 93 amended**

15 (1) Section 93(1) is amended by deleting “R or MA” and inserting instead —

“ R 18+ or MA 15+ ”.

(2) Section 93(2) is amended as follows:

20 (a) in paragraph (a) by deleting “classified MA” and inserting instead —

“ classified MA 15+ ”;

**s. 30**

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- (b) in paragraph (a) by deleting “classified R or MA” and inserting instead —  
“ classified R 18+ or MA 15+ ”;
- 5 (c) in paragraph (b) by deleting “classified R” in both places where it occurs and inserting instead —  
“ classified R 18+ ”.

**30. Section 94 amended**

The Table to section 94 is deleted and the following Table is inserted instead —

10

“

**Table**

| <b>Item</b> | <b>Column 1<br/>Feature film</b> | <b>Column 2<br/>Advertised film</b> |
|-------------|----------------------------------|-------------------------------------|
| 1           | G                                | G                                   |
| 2           | PG                               | PG or G                             |
| 3           | M                                | M, PG or G                          |
| 4           | MA 15+                           | MA 15+, M, PG or G                  |
| 5           | R 18+                            | R 18+, MA 15+, M, PG or G           |

”.

**31. Section 95 amended**

The Table to section 95 is deleted and the following Table is inserted instead —

15

“

**Table**

| <b>Item</b> | <b>Column 1<br/>Main game</b> | <b>Column 2<br/>Advertised computer game</b> |
|-------------|-------------------------------|--|
| 1           | G                             | G  |
| 2           | PG                            | PG or G                                      |
| 3           | M                             | M, PG or G                                   |
| 4           | MA 15+                        | MA 15+, M, PG or G                           |

”.

**32. Section 110 amended**

Section 110 is amended as follows:

- (a) in paragraph (a) by deleting “X, R or MA” and inserting instead —  
 5 “ X 18+, R 18+ or MA 15+ ”;
- (b) in paragraph (b) by deleting “or MA (15+)” and inserting instead —  
 “ or MA 15+ ”.

**33. Section 117 amended**

10 Section 117(2a)(a) is amended by deleting “or X” and inserting instead —

“ or X 18+ ”.

**34. Section 117A amended**

15 Section 117A(7)(b) is amended by deleting “X or” and inserting instead —

“ X 18+ or ”.

**35. Section 141A amended**

Section 141A(2) is amended by deleting “X or” and inserting instead —

20 “ X 18+ or ”.

**36. Transitional**

Schedule 2 sets out transitional provisions.

**Part 5 — Display of MA 15+ Computer Games**

**37.        Section 85A inserted**

After section 85 the following section is inserted —

“

5            **85A.     Display of MA 15+ computer games or containers**

A person must not display in a public place —

- (a) a computer game classified MA 15+; or
- (b) the container, wrapping or casing for a computer game classified MA 15+,

10                                      with the intention of selling or supplying the computer game except in an area of the public place set aside by that person and conspicuously identified, as an area for the display of computer games, or containers, wrapping or casings for computer games, with that classification.

15                                      Penalty: \$500.

”.



**Schedule 1 — Consequential amendments**

[s. 4]

**1. Co-operative Schemes (Administrative Actions) Act 2001 amended**

5 (1) The amendments in this clause are to the *Co-operative Schemes (Administrative Actions) Act 2001*\*.

[\* *Act No. 31 of 2001.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 67.]*

10 (2) Section 3 is amended in paragraph (aa) of the definition of “commencement time” by deleting “*Censorship Act*” and inserting instead —

“

*Classification (Publications, Films and Computer Games) Enforcement Act*

15

”.

(3) Section 4(1) is amended in paragraph (aa) of the definition of “relevant State Act” by deleting “*Censorship Act*” and inserting instead —

“

*Classification (Publications, Films and Computer Games) Enforcement Act*

20

”.

**2. The Criminal Code amended**

(1) The amendments in this clause are to *The Criminal Code*\*.

25 [\* *Reprint 12 as at 1 June 2005 (see the Schedule to the Criminal Code Act 1913 appearing as Appendix B to the Criminal Code Compilation Act 1913).*]

**Schedule 1** Consequential amendments

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- (2) Section 557K(1) is amended in the definition of “child sex offender” by deleting “*Censorship Act*” in the 4 places where it occurs and inserting instead —

“

5

*Classification (Publications, Films and  
Computer Games) Enforcement Act*

”.

**3. *Prostitution Act 2000* amended**

- (1) The amendments in this clause are to the *Prostitution Act 2000*\*.

10

[\* *Act No. 17 of 2000.*

*For subsequent amendments see Western Australian Legislation  
Information Tables for 2004, Table 1, p. 361.]*

- (2) Schedule 1 is amended by deleting “*Censorship*” and inserting instead —

15

“

*Classification (Publications, Films and Computer Games)  
Enforcement*

”.

**Schedule 2 — Transitional**

[s. 36]

**1. Transitional provisions for films and advertisements with older ratings**

5 If, just before Part 4 commenced, a film or advertisement had a classification of a type mentioned in column 2 of the following Table, in relation to an item, then, for the purposes of applying the *Classification (Publications, Films and Computer Games) Enforcement Act 1996* after that Part commences, the film or  
10 advertisement is taken to have, and to have had at all times before that Part commenced when it had that classification, the classification of the type mentioned in column 3 of the Table in relation to the item.

**Table**

| <b>Film and advertisement classifications</b> |   |  |
|---|---|--|
| <b>Column 1<br/>Item</b>                      | <b>Column 2<br/>Former type of<br/>classification</b> | <b>Column 3<br/>New type of<br/>classification</b> |
| 1   | M (15+)   | M  |
| 2   | MA (15+)  | MA 15+   |
| 3   | R   | R 18+  |
| 4   | X   | X 18+  |

**2. Transitional provisions for computer games and advertisements with older ratings**

15 If, just before Part 4 commenced, a computer game or advertisement had a classification of a type mentioned in column 2 of the following Table, in relation to an item, then, for the purposes of applying the *Classification (Publications, Films and Computer Games) Enforcement Act 1996* after that Part commences, the computer game or  
20 advertisement is taken to have, and to have had at all times before that Part commenced when it had that classification, the classification of the type mentioned in column 3 of the Table in relation to the item.

**Table**

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**Computer game and advertisement classifications**

---

| <b>Column 1<br/>Item</b> | <b>Column 2<br/>Former type of<br/>classification</b> | <b>Column 3<br/>New type of<br/>classification</b> |
|--------------------------|---|--|
| 1                        | G (8+)  | PG   |
| 2                        | M (15+)   | M  |
| 3                        | MA (15+)  | MA 15+   |

---

