

House of Assembly—No 76A

As reported with an amendment, report agreed to and passed remaining stages,
17 October 2012

South Australia

Classification (Publications, Films and Computer Games) (R 18+ Computer Games) Amendment Bill 2012

A BILL FOR

An Act to amend the *Classification (Publications, Films and Computer Games) Act 1995*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Classification (Publications, Films and Computer Games) (R 18+ Computer Games) Amendment Act 2012*.

5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Classification (Publications, Films and Computer Games) Act 1995*

4—Amendment of section 15—Types of classifications

Section 15(3)—after paragraph (d) insert:

- 5 (da) **R 18+** Restricted

5—Amendment of section 40A—Keeping R 18+ films with other films

Section 40A(3)—after paragraph (b) insert:

or

- 10 (c) complied with a code of practice prescribed by the regulations for the purposes of this section.

6—Amendment of section 56—Demonstration etc of RC computer games

Section 56(1)(b)—after "public place" insert:

or so that it can be seen from a public place

7—Repeal of section 57

- 15 Section 57—delete the section

8—Amendment of section 58—Demonstration etc of unclassified, R 18+ and MA 15+ computer games

Section 58(1)—delete subsection (1) and substitute:

- 20 (1) A person must not demonstrate a computer game classified R 18+ in a public place unless—
- (a) the determined markings are exhibited before the game can be played; and
 - (b) entry to the place is restricted to adults.

Maximum penalty: \$5 000.

- 25 (1a) A person must not demonstrate so that it can be seen from a public place that is outside the place where it is demonstrated—

- (a) an unclassified computer game that would, if classified, be classified R 18+; or
- (b) a computer game classified R 18+.

30 Maximum penalty: \$5 000.

- (1b) A minor who is 15 or older must not buy a computer game classified R 18+, knowing that it is so classified.

Maximum penalty: \$750.

(1c) A person must not demonstrate a computer game classified MA 15+ in a public place unless—

(a) the determined markings are exhibited before the game can be played; and

(b) entry to the place is restricted to adults or minors who are in the care of a parent or guardian while in the public place.

Maximum penalty: \$1 250.

9—Amendment of section 59—Private demonstration of RC and R 18+ computer games in presence of minor

Section 59(2)—delete subsection (2) and substitute:

(2) A person must not demonstrate in a place, other than a public place, in the presence of a minor, a computer game classified R 18+ unless the person is a parent or guardian of the minor.

Maximum penalty: \$5 000.

(3) It is a defence to a prosecution for an offence against subsection (1) or (2) to prove that the defendant believed on reasonable grounds that the minor was an adult.

10—Insertion of section 60A

After section 60 insert:

60A—Keeping R 18+ computer games with other computer games

(1) An occupier of premises (other than adult-only premises) at which computer games with a classification lower than R 18+ are sold must not display material for a computer game classified R 18+ at the premises—

(a) unless—

(i) the material is displayed in a different area (including, for example, in a different aisle or on a different shelving case, stand or table) from that in which material for other computer games is displayed; and

(ii) the area is marked as an area displaying material for computer games classified R 18+ by a notice complying with subsection (2) displayed in a prominent place near the area; and

(iii) the surface area of the material that is on display (for example, the cover of a casing containing the game, where that is on display) is not more than 300 cm²; or

(b) unless, at all times while on display, the material bears no images or markings other than—

- (i) the name of the computer game in letters of 10 millimetres or less in height; and
- (ii) the determined markings relevant to its classification.

5 Maximum penalty: \$5 000.

Expiation fee: \$315.

- 10 (2) A notice required to be displayed under subsection (1)(a) must contain the following statement (printed in legible type of at least 15 millimetres in height and of a colour that contrasts with the background colour of the notice):

R 18+ COMPUTER GAMES AREA—THE PUBLIC ARE
WARNED THAT MATERIAL DISPLAYED IN THIS AREA
MAY CAUSE OFFENCE.

- 15 (3) It is a defence to a prosecution for an offence against subsection (1) to prove that the defendant—

- (a) did not know, and could not reasonably have known, that the material was on the premises; or
- (b) took all reasonable steps to prevent the commission of the offence; or
- (c) complied with a code of practice prescribed by the regulations for the purposes of this section.

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- (4) In this section—

material for a computer game means—

- (a) a disc or other device on which the computer game is stored or recorded; or
- (b) a container, wrapping, casing or other item that bears images or markings representing the computer game.

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- 30 (5) Nothing in this section permits the exhibition of a computer game or part of a computer game classified R 18+ at premises to which this section applies.

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11—Amendment of section 62—Sale or delivery of certain computer games to minors

Section 62—after subsection (1) insert:

- 35 (1a) A person must not sell or deliver to a minor a computer game classified R 18+ unless the person is a parent or guardian of the minor.

Maximum penalty: \$5 000.

(1b) It is a defence to a prosecution for an offence against subsection (1a) to prove that—

- 5
- (a) the minor produced to the defendant or the defendant's employee or agent acceptable proof of age before the defendant sold or delivered the film to the minor and the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was an adult; or
- (b) the minor was employed by the defendant or the defendant's employer and the delivery took place in the course of that employment.
- 10

12—Amendment of section 63—Power to demand particulars and expel minors

Section 63(4)—after "classified" insert:

R 18+ or

15 **13—Amendment of section 64—Leaving computer games in certain places**

Section 64(2)—delete "MA 15+" wherever occurring and substitute in each case:

R 18+ or MA 15+

14—Amendment of section 69A—Liability of occupier for R 18+ advertisements in video stores etc

20 (1) Section 69A(1)—after "films" insert:

or computer games

(2) Section 69A(1)(a) and (b)—after "film" wherever occurring insert:

or computer game

(3) Section 69A(2)—delete subsection (2) and substitute:

25 (2) It is a defence to a prosecution for an offence against subsection (1) to prove that—

- (a) the defendant took all reasonable steps to prevent the commission of the offence; or
- (b) the defendant complied with a code of practice prescribed by the regulations for the purposes of this section.
- 30

(4) Section 69A(3)—delete subsection (3) and substitute:

(3) This section does not apply to—

- (a) material for a film, within the meaning of section 40A, that is lawfully displayed in accordance with that section; or
- (b) material for a computer game, within the meaning of section 60A, that is lawfully displayed in accordance with that section.
- 35

15—Amendment of section 71—Advertisements with computer games

Section 71(1), table—delete the table and substitute:

Table

| Item | Column 1 Main game | Column 2 Advertised computer game |
|-------------|-------------------------------|--|
| 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 |

5 **16—Amendment of section 75A—Interpretation**

Section 75A, definition of *matter unsuitable for minors*—after "film" wherever occurring insert:

or computer game

17—Amendment of section 80—Powers of entry, seizure and forfeiture

10 Section 80(7)—delete "58(1), 59" and substitute:
59, 60A

18—Amendment of section 91—Regulations

Section 91—after subsection (2) insert:

- 15 (3) The regulations may refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time.
- (4) If a code, standard or other document is referred to or incorporated in the regulations—
- 20 (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
- 25 (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.