

Legislative Council—No 141

As received from the House of Assembly and read a first time, 14 November 2019

South Australia

**Statutes Amendment and Repeal (Classification of Publications, Films and Computer Games)
Bill 2019**

A BILL FOR

An Act to amend the *Classification (Publications, Films and Computer Games) Act 1995* and the *Summary Offences Act 1953*, to repeal the *Classification of Theatrical Performances Act 1978* and for other purposes.

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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 *Statutes Amendment and Repeal (Classification of Publications, Films and Computer Games) Act 2019*.

2—Commencement

This Act comes 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 long title

Long title—delete "for the establishment and enforcement of schemes" and substitute:
for the enforcement of a scheme

5—Substitution of section 3

Section 3—delete the section and substitute:

3—Objects

The objects of this Act are—

- (a) to give effect to the scheme for the classification of publications, films and computer games set out in the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth by—
 - (i) making provision for the enforcement of classification decisions applying in South Australia; and
 - (ii) prohibiting the publication of certain publications, films and computer games; and
- (b) to provide protection against prosecution under laws relating to obscenity, indecency, offensive materials or blasphemy when classified publications, films or computer games are published in accordance with this Act.

6—Amendment of section 4—Interpretation

- (1) Section 4, definition of *approved advertisement*—delete the definition and substitute:

approved advertisement means an advertisement approved under the Commonwealth Act;

- (2) Section 4, definition of *classified*—delete the definition and substitute:

classified, in relation to a publication, film or computer game, means classified under the Commonwealth Act;

(3) Section 4, definition of *consumer advice*—delete the definition and substitute:

consumer advice, in relation to a publication, film or computer game, means consumer advice determined under the Commonwealth Act for the publication, film or computer game;

5 (4) Section 4, definition of *Council*—delete the definition

(5) Section 4, definition of *submittable publication*—delete the definition and substitute:

submittable publication has the same meaning as in the Commonwealth Act and includes a publication called in by the National Director under Schedule 1 of this Act;

10 **7—Repeal of Parts 2 and 3**

Parts 2 and 3—delete Parts 2 and 3

8—Amendment of section 28—Exhibition of film in public place

Section 28(2)(b)—delete paragraph (b) and substitute:

15 (b) with modifications referred to in section 21(2) or (3) of the Commonwealth Act,

9—Amendment of section 37—Sale of films

Section 37(2)(b)—delete paragraph (b) and substitute:

(b) with modifications referred to in section 21(2) or (3) of the Commonwealth Act,

20 **10—Amendment of section 40—Films to bear determined markings and consumer advice**

(1) Section 40(4)(a)—delete "this Act or"

(2) Section 40(4)(b)—delete "this Act or"

11—Amendment of section 47—Category 1 restricted publications

25 (1) Section 47(1)(a)(ii)—delete "or by the Council or the Minister under this Act"

(2) Section 47(2)(a)—delete "this Act or"

(3) Section 47(2)(b)—delete "this Act or"

12—Amendment of section 48—Category 2 restricted publications

(1) Section 48(3)(a)—delete "this Act or"

30 (2) Section 48(3)(b)—delete "this Act or"

13—Amendment of section 48A—Sale or delivery of publications contrary to conditions

Section 48A—delete "this Act or"

14—Amendment of section 50—Misleading or deceptive markings

35 (1) Section 50(3)(a)—delete "this Act or"

(2) Section 50(3)(b)—delete "this Act or"

15—Amendment of section 60—Computer games to bear determined markings and consumer advice

- (1) Section 60(5)—delete "this Act or"
(2) Section 60(6)(a)—delete "this Act or"
5 (3) Section 60(6)(b)—delete "this Act or"

16—Amendment of section 66—Certain advertisements not to be published

Section 66(1) and (2)—delete "this Act or" wherever occurring

17—Amendment of section 72—Advertisement to contain determined markings and consumer advice

- 10 (1) Section 72(2)(a)—delete "this Act or"
(2) Section 72(2)(b)—delete "this Act or"

18—Amendment of section 73—Misleading or deceptive advertisements

- (1) Section 73(3)(a)—delete "this Act or"
(2) Section 73(3)(b)—delete "this Act or"

15 **19—Amendment of section 83—Evidence**

Section 83(2)—delete subsection (2)

20—Repeal of section 90

Section 90—delete the section

Part 3—Amendment of *Summary Offences Act 1953*

20 **21—Amendment of section 33—Indecent or offensive material**

Section 33(7)—delete subsection (7) and substitute:

- (7) In deciding whether to consent to a prosecution under this section, the Minister must have regard to any relevant decision of the National Board or National Review Board under the *Classification (Publications, Films and Computer Games) Act 1995* of the
25 Commonwealth.

Part 4—Repeal of *Classification of Theatrical Performances Act 1978*

22—Repeal of Act

30 The *Classification of Theatrical Performances Act 1978* is repealed.

Part 5—Transitional provisions

23—Transitional provisions

(1) In this section—

Council means the South Australian Classification Council established by the *Classification (Publications, Films and Computer Games) Act 1995* (as in force immediately before the commencement of section 7 of this Act);

Minister means the Minister responsible for the administration of the *Classification (Publications, Films and Computer Games) Act 1995*.

(2) A member of the Council ceases to hold office on the commencement of this section.

(3) Any process or proceeding commenced—

(a) by the Council or the Minister under Part 3 of the *Classification (Publications, Films and Computer Games) Act 1995* (as in force immediately before the commencement of section 7 of this Act); or

(b) by the Council under the *Classification of Theatrical Performances Act 1978* (as in force immediately before the commencement of section 22 of this Act),

may be continued and completed by the Minister after that commencement.

(4) The Minister may, in connection with the operation of subsection (3)—

(a) adopt any findings, determinations, report or recommendations of the Council that may be relevant to the continuation or completion of any process or proceeding by the Minister; and

(b) take other steps to promote the smoothest possible transition to the Minister acting instead of the Council.