

(Reprint No. 1)

SOUTH AUSTRALIA

**CLASSIFICATION OF THEATRICAL PERFORMANCES ACT 1978**

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 3 April 1995.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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# CLASSIFICATION OF THEATRICAL PERFORMANCES ACT 1978

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Classification of Theatrical Performances Act 1978 No. 20 of 1978  
[Assented to 23 March 1978]<sup>1</sup>

as amended by

Statutes Repeal and Amendment (Places of Public Entertainment) Act 1993 No. 87 of 1993 [Assented to  
27 October 1993]<sup>2</sup>

<sup>1</sup> Came into operation 11 May 1978: *Gaz.* 11 May 1978, p. 1652.

<sup>2</sup> Came into operation 3 April 1995: *Gaz.* 23 February 1995, p. 422.

**NOTE:**

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the Act see Appendix.*

An Act to provide for the classification of theatrical performances; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Classification of Theatrical Performances Act 1978*.

**Commencement**

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

**Arrangement of Act**

3. This Act is arranged as follows:—

PART 1—PRELIMINARY

PART 2—THE BOARD

PART 3—CLASSIFICATION OF THEATRICAL PERFORMANCES

PART 4—MISCELLANEOUS.

**Interpretation**

4. In this Act, unless the contrary intention appears—

"actor", in relation to a theatrical performance, means any person who acts or performs, or is seen or heard, in the course of the performance;

"adult" means a person of or above the age of eighteen years;

"advertisement" in relation to a theatrical performance means any poster, film, photograph, sketch, programme or written or printed matter used or intended to be used to advertise or publicise the theatrical performance;

"the Board" means the Classification of Theatrical Performances Board established under this Act;

"child" means a person under the age of eighteen years;

"promoter" of a theatrical performance means—

- (a) any person who is, or would be, entitled to any profits derived from the sale of tickets to the performance or of rights of any other kind to view or attend the performance; or
- (b) the producer of the theatrical performance; or
- (c) the proprietor of the theatre in which the theatrical performance takes place or is to take place;

"proprietor" of a theatre means the owner of the theatre and includes any person who is entitled to rents or profits derived from the use of the theatre;

"restricted theatrical performance" means a theatrical performance classified as a restricted theatrical performance by the Board in pursuance of this Act;

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"**script**" in relation to a theatrical performance means a document that sets out the words to be spoken by actors in the course of the performance and describes visual and audible aspects of the performance with reasonable particularity;

"**theatre**" means any place whether enclosed, partly enclosed or unenclosed in which a theatrical performance takes place;

"**theatrical performance**" means any play, mime, ballet, dance, display or other entertainment—

- (a) in which one or more live actors or performers take part; and
- (b) which is performed, or is intended for performance, before an audience.

**PART 2  
THE BOARD**

**Establishment of Board**

5. (1) There shall be a Board entitled the "Classification of Theatrical Performances Board".

(2) The Board shall be constituted of those persons who are for the time being members of the Classification of Publications Board established under the *Classification of Publications Act 1973-1977*.

(3) The chairman of the Classification of Publications Board shall be chairman of the Board.

**Quorum, etc.**

6. (1) Three members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting unless a quorum is present.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Board, shall be a decision of the Board.

(3) The chairman shall preside at a meeting of the Board and, in addition to a deliberative vote, shall, in the event of an equality of votes, have a second or casting vote.

(4) In the absence of the chairman from a meeting of the Board, the members present shall elect one of their number to be chairman for that meeting and a member so elected shall perform and discharge the functions and obligations of the chairman at that meeting.

(5) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

**Validity of acts of Board and immunity of its members**

7. No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act.

**Allowances and expenses**

8. The members of the Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

**The Registrar**

9. (1) There shall be a Registrar of the Board.

(2) The Registrar shall be appointed subject to and in accordance with, the *Public Service Act 1967-1977*.

(3) The office of the Registrar may be held in conjunction with any other office in the public service of the State.

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**PART 3**  
**CLASSIFICATION OF THEATRICAL PERFORMANCES**

**Application for classification**

10. (1) The Board may, of its own motion, or at the request of any person, meet for the purpose of considering the classification to be assigned to a theatrical performance.

(2) The Board shall, at the request of the Minister, meet to consider the classification to be assigned to a theatrical performance specified in the request.

**Criteria to be applied by the Board**

11. (1) In considering questions as to whether a theatrical performance is offensive, or suitable or unsuitable for children, the Board shall have regard to standards of morality, decency and propriety that are generally accepted by reasonable adult persons.

(2) In performing its functions under this Act the Board shall have due regard to the nature of the theatrical performance under consideration and to all other relevant factors that bear upon the classification or conditions that should be assigned to, or imposed in respect of, the theatrical performance.

**Classification of theatrical performances**

12. (1) Where the Board is satisfied that the nature of a theatrical performance is such that children might properly attend the performance, it may classify the performance as an unrestricted theatrical performance.

(2) Where the Board is satisfied that a theatrical performance is—

(a) likely to cause offence to reasonable adult persons; or

(b) unsuitable for the attendance of children,

it shall, subject to subsection (3) of this section, classify the performance as a restricted theatrical performance.

(3) Where the Board is satisfied that a theatrical performance is likely to cause serious offence to reasonable adult persons, it may refrain from assigning a classification to the performance.

**Conditions in respect of theatrical performances**

13. (1) Where the Board assigns a classification to a theatrical performance, it may impose such conditions in respect of the performance as it thinks fit to ensure that changes are not made in the nature of the performance of a kind that would affect—

(a) the classification of the performance; or

(b) a decision by the Board as to whether or not a classification should be assigned to the performance.

(2) Where the Board assigns a restricted classification to a theatrical performance, it may impose conditions restricting the publication of advertisements in respect of the performance.

**Powers of the Board**

14. (1) In the exercise of its functions under this Part, the Board may—

(a) by summons signed on behalf of the Board by a member of the Board, or the Registrar, require the attendance before the Board of any person whom the Board thinks fit to call before it; or

- (b) by summons signed on behalf of the Board by a member of the Board or the Registrar require the production of a script or other document relating to a theatrical performance; or
- (c) inspect any script or other document produced before it and retain copies thereof; or
- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board relevant to any matter being inquired into by the Board (which oath or affirmation may be administered by any member of the Board or by the Registrar); or
- (e) require any person appearing before the Board (whether he has been summoned to appear or not) to answer any relevant question put to him by any member of the Board or by any other person appearing before the Board.

(2) Subject to subsection (3) of this section, if any person—

- (a) who has been served with a summons to attend before the Board neglects or fails to attend in obedience to the summons; or
- (b) who has been served with a summons to produce any publication or other document neglects or fails to comply with the summons; or
- (c) misbehaves himself before the Board, wilfully insults the Board or any member thereof or interrupts the proceedings of the Board; or
- (d) refuses to be sworn or to affirm, or to answer any relevant question when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(3) A person shall not be obliged to answer a question put to him by the Board if the answer to that question would tend to incriminate him, or to produce any publication or other document if their contents would tend to incriminate him.

#### Notice

15. (1) Notice of—

- (a) any classification or conditions assigned to or imposed in respect of a theatrical performance; or
- (b) any decision by the Board to refrain from assigning a classification to a theatrical performance,

shall be published in the *Gazette* and shall be given personally or by post to a promoter of the theatrical performance.

(2) The classification and conditions assigned to or imposed in respect of a theatrical performance shall come into effect upon publication of the notice in the *Gazette* or service of the notice on the promoter, whichever first occurs.

**PART 4  
MISCELLANEOUS**

**Penalty for breach of condition**

16. Where any condition imposed by the Board in respect of a theatrical performance is not observed, the promoter shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

**Places where restricted theatrical performances may take place**

17. (1) A restricted theatrical performance may only take place in a theatre approved by the Board.

(2) Where a restricted theatrical performance takes place otherwise than as allowed by subsection (1) of this section, the promoter shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

**Children between age of two and eighteen years not to be admitted to restricted theatrical performance**

18. (1) Where a child between the age of two years and eighteen years is in a theatre at any time when a restricted theatrical performance is taking place, or is about to take place, the promoter shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

(2) It shall be a defence to a prosecution under subsection (1) of this section that—

- (a) the defendant took reasonable precautions designed to ensure that any such persons were not admitted to the theatre; or
- (b) the defendant, or a person to whom the responsibility of admitting persons to the theatre was entrusted, believed on reasonable grounds that the child to whom the charge relates had not attained the age of two years, or had attained the age of eighteen years.

(3) Where a child between the age of sixteen years and eighteen years is in a theatre at any time when a restricted theatrical performance is taking place, or is about to take place, he shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

(4) A person who assists a child between the age of two and eighteen years to enter, or gain admission to a theatre in which a restricted theatrical performance is taking place, or is about to take place, he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(5) Where a restricted theatrical performance is taking place, or is about to take place in a theatre, the promoter, an employee of the promoter, or a member of the police force may—

- (a) require any person who seeks admission to the theatre, or who is in the theatre to state his correct age; and
- (b) where the promoter, employee, or member of the police force, suspects that the age as stated may be incorrect, require that person to produce satisfactory evidence of his age.

(6) Where a restricted theatrical performance is taking place, or is about to take place in a theatre, and the promoter, an employee of the promoter, or a member of the police force suspects upon reasonable grounds that a person who is in the theatre is between two and eighteen years of age he may—

- (a) require that person to leave the theatre forthwith; and

- (b) where that person fails to comply with that requirement, use reasonable force to remove that person from the theatre.

(7) Any statement or evidence obtained pursuant to a requirement under subsection (5) of this section shall be admissible in any legal proceedings against the person by whom the statement or evidence was made or furnished.

(8) Any person who fails to comply with a requirement under subsection (5) or subsection (6) of this section, or who, in response to such a requirement, makes a false statement, or furnishes false evidence, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

**Certain actions not to constitute offences**

19. (1) Notwithstanding any law relating to blasphemy, obscenity or indecency it shall not be an offence—

- (a) to produce or take part in a theatrical performance in the presence of the Board, or a member or officer of the Board, with a view to the performance being classified by the Board;
- (b) to produce or take part in a theatrical performance that has been classified as an unrestricted theatrical performance by the Board and in respect of which any conditions imposed by the Board are observed;
- (c) to produce or take part in a theatrical performance that has been classified as a restricted theatrical performance by the Board and in respect of which any conditions imposed by the Board are observed.

(2) The burden of proving that subsection (1) of this section is applicable in any proceedings for an offence relating to blasphemy, obscenity or indecency lies on the defendant.

**Evidentiary provision**

20. An apparently genuine document purporting to be under the hand of the Registrar and to certify—

- (a) that a specified classification was assigned by the Board in respect of a specified theatrical performance; or
- (b) that specified conditions were imposed by the Board in respect of a specified theatrical performance,

shall be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the matters so certified.

**Power to enter and view performance**

21. (1) An authorised person may, after giving reasonable notice to the promoter of a theatrical performance, enter and remain in a theatre for the purpose of observing the performance or a rehearsal preliminary to the performance.

(2) In this section—

"authorised person" means—

- (a) a member of the Board; or

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- (b) the Registrar; or
- (c) a person authorised in writing by the Board to exercise the powers conferred by this section.

**Summary disposal of offences**

22. Proceedings in respect of offences against this Act shall be disposed of summarily.

**Regulations**

23. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section those regulations may—

- (a) prescribe the manner and form in which an application for classification of a theatrical performance is to be made; and
- (b) prescribe and provide for the payment of fees in respect of a request for the classification of a theatrical performance; and
- (c) requiring that advertisements published in respect of theatrical performances classified under this Act bear symbols described in the regulations denoting those classifications; and
- (d) prescribe penalties (recoverable summarily) not exceeding two hundred dollars for breach of, or non-compliance with, any regulation.

**APPENDIX**

**LEGISLATIVE HISTORY**

Section 17(1):

substituted by 87, 1993, s. 8