

South Australia

# **Classification (Publications, Films and Computer Games) (R 18+ Films) Amendment Act 2009**

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+ Films) Amendment Act 2009*.

### **2—Commencement**

This Act will come into operation 1 month after the day on which it is assented to by the Governor.

### **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 4—Interpretation

Section 4—after the definition of *adult* insert:

*adult-only premises* means premises to which entry is restricted to adults;

### 5—Insertion of section 40A

After section 40—insert:

#### 40A—Keeping R 18+ films with other films

- (1) An occupier of premises (other than adult-only premises) at which films with a classification lower than R 18+ are sold must not display material for a film 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 films is displayed; and
    - (ii) the area is marked as an area displaying material for films 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 front cover of a DVD container where that is on display) is not more than 300 cm<sup>2</sup>; or
  - (b) unless, at all times while on display, the material bears no images or markings other than—
    - (i) the name of the film in letters of 10 millimetres or less in height; and
    - (ii) the determined markings relevant to its classification.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (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+ FILMS AREA—THE PUBLIC ARE WARNED THAT  
MATERIAL DISPLAYED IN THIS AREA MAY CAUSE  
OFFENCE.

- (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.
- (4) In this section—
- material for a film*** means—
- (a) a disc or other device on which the film is recorded; or
  - (b) a container, wrapping, casing or other item that bears images or markings representing the film.
- (5) Nothing in this section permits the exhibition of a film or part of a film classified R 18+ at premises to which this section applies.

## **6—Insertion of section 69A**

After section 69—insert:

### **69A—Liability of occupier for R 18+ film advertisements in video stores etc**

- (1) An occupier of premises (other than adult-only premises) at which films with a classification lower than R 18+ are sold must not—
- (a) exhibit for promotional purposes at the premises a film or part of a film classified R 18+; or
  - (b) display for promotional purposes at the premises a poster, pamphlet or other printed material in relation to a film classified R 18+.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the defendant took all reasonable steps to prevent the commission of the offence.
- (3) This section does not apply to material for a film, within the meaning of section 40A, that is lawfully displayed in accordance with that section.

## **7—Amendment of section 80—Powers of entry, seizure and forfeiture**

- (1) Section 80(7)—after "38," insert:

40A,

- (2) Section 80(7)—delete " or 65" and insert:

, 65 or 69A,