



Classification (Publications, Films and Computer Games) Amendment (Industry Self-Classification and Other Measures) Act 2023

No. 65, 2023

**An Act to amend the law relating to the
classification of publications, films and computer
games, and for related purposes**

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**An Act to amend the law relating to the
classification of publications, films and computer
games, and for related purposes**

[Assented to 14 September 2023]

The Parliament of Australia enacts:

No. 65, 2023 Classification (Publications, Films and Computer Games) Amendment 1
(Industry Self-Classification and Other Measures) Act 2023

1 Short title

This Act is the *Classification (Publications, Films and Computer Games) Amendment (Industry Self-Classification and Other Measures) Act 2023*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	A day or days to be fixed by Proclamation. However, if any of the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Classification by accredited persons

Part 1—Main amendments

Classification (Publications, Films and Computer Games) Act 1995

1 Section 3A

After:

A publication, film or computer game that is shown as part of a registered event, or by an approved cultural institution, may be subject to a conditional cultural exemption in relation to that showing, if certain criteria are met.

insert:

Films classified under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special Broadcasting Service Act 1991* are taken to be classified by the Board in some circumstances.

2 Section 3A

Omit:

- (b) if there is an approved classification tool for the publication, film or computer game—by the operation of the approved classification tool.

substitute:

- (b) if there is an approved classification tool for the publication, film or computer game—by the operation of the approved classification tool.

A film or computer game may also be classified by an accredited person.

3 Section 3A

After “However, applications for a review of classification decisions can be made to the Classification Review Board”, insert “and films classified under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special Broadcasting Service Act 1991* that are taken to be classified by the Board can be reclassified in some circumstances”.

4 Section 5 (paragraph (a) of the definition of *decision*)

After “or 97A”, insert “or under subsection 22CH(4) or 22L(4) following revocation”.

5 Section 6J

Omit:

- (b) if there is an approved classification tool for the publication, film or computer game—by the operation of the approved classification tool.

substitute:

- (b) if there is an approved classification tool for the publication, film or computer game—by the operation of the approved classification tool.

A film or computer game may also be classified by an accredited person.

6 Section 6J

Omit:

If a film or computer game is classified by the Board, the Board must determine consumer advice for the classified material. The Board may determine consumer advice for certain publications.

If a publication, film or computer game is classified by the operation of an approved classification tool, consumer advice for the publication, film or computer game is determined by the tool.

substitute:

Consumer advice must be determined for each classified film or computer game. Consumer advice may be determined for certain publications and must be determined for a publication classified by the operation of an approved classification tool.

7 Division 2 of Part 2 (heading)

Repeal the heading.

8 Section 10

Repeal the section.

9 Subsection 12(1)

Omit “the Board”.

10 Before section 13

Insert:

12B Films consisting only of classified films

Despite any other provision of this Act, a film:

- (a) that is contained on one device; and
- (b) that consists only of 2 or more classified films;

is to be treated, for the purposes of this Act, as if each of the classified films were on a separate device.

12C Considered form of publication, film or computer game to be final

In classifying a publication, film or computer game under this Act, assume that the publication, film or game will be published only in the form in which it is considered for classification.

12D Classification of publications, films or computer games containing advertisements

- (1) A publication must not be classified if it contains an advertisement that has been refused approval.

- (2) An unclassified film (the *first film*) or unclassified computer game (the *first game*) must not be classified if it:
- (a) contains an advertisement for a film or computer game with a higher classification than the classification the first film or first game would be given if it did not contain the advertisement; or
 - (b) contains an advertisement for an unclassified film or unclassified computer game:
 - (i) that has been assessed in accordance with section 31 or under section 33 as being likely to have a higher classification than the classification the first film or first game would be given if it did not contain the advertisement; or
 - (ii) the likely classification of which has not been assessed in accordance with section 31 or under section 33; or
 - (c) contains an advertisement that has been refused approval.
- (3) Subsection (1) or (2) does not prevent a publication, film or computer game from being classified by the Board if the application for the classification is an enforcement application.

Division 2—Classification by the Board

Subdivision A—Classification on application to the Board

12E Classification of publications, films and computer games by the Board

A person may apply to the Board for the classification of a publication, film or a computer game for the Australian Capital Territory.

11 Section 14A

Repeal the section.

12 Subsections 17(5) and (6)

Repeal the subsections.

13 Before section 17A

Insert:

Subdivision B—Authorised assessors of computer games

17AA Authorisation to assess computer games

- (1) Subject to subsection (2), the Director may, in writing, authorise a person for the purpose of subsection 17(3) if the person has completed training approved by the Director in the making of assessments.
- (2) The Director must not authorise a person for the purposes of subsection 17(3) if a notice under section 17B, 17C, 22F, 22H or 22Q is in force in relation to the person.

14 Subsection 17B(1) (note 1)

Omit “17(6)”, substitute “17AA(2)”.

15 Section 18

Repeal the section.

16 Before section 19

Insert:

Subdivision C—Consumer advice and other matters

17 After section 20

Insert:

Division 2A—Modified films and computer games

18 Paragraphs 20A(2)(a) and 21(2)(a)

Omit “22”, substitute “12D”.

19 Before section 21A

Insert:

Division 2B—Revocation by the Board of classifications involving assessments of additional content or authorised assessors

20 Paragraph 21A(a)

Omit “a classified interactive film or a classified computer game”, substitute “an interactive film, or computer game, classified on application under section 14 or 17”.

21 Section 22

Repeal the section.

22 Before section 22A

Insert:

Division 2C—Enforcement applications for classification by the Board

23 Subsection 22A(1)

After “An application”, insert “to the Board”.

24 Before section 22B

Insert:

Division 2D—Validation of Board decisions

25 Division 2AA of Part 2 (heading)

Repeal the heading, substitute:

Division 2E—Classification by approved classification tools

26 Paragraph 22CF(2)(a)

Repeal the paragraph, substitute:

(a) Divisions 2, 2B, 2C and 2D of Part 2;

27 Subsection 22CH(6)

Repeal the subsection.

28 Division 2A of Part 2 (heading)

Repeal the heading, substitute:

Division 2F—Additional content assessors

29 Paragraph 22D(2)(a)

Omit “section 22F”, substitute “section 17B, 17C, 22F, 22H or 22Q”.

30 After section 22J

Insert:

Division 2G—Classification by accredited person

Subdivision A—Classification

22K An accredited person may classify a film or computer game

- (1) Subject to subsection (4), an accredited person may, on request of the publisher or proposed publisher of a film or computer game, classify the film or computer game for the Australian Capital Territory.

Note: If the accredited person has been requested to complete further training under section 22N, the accredited person may not classify films or computer games until the person has completed the training: see subsection 22N(2).

- (2) The classification takes effect when it is included in:
 - (a) the register, known as the National Classification Database, maintained by the Department; or
 - (b) any replacement register.
- (3) The accredited person must also determine consumer advice giving information about the content of the film or game.

RC or X 18+ material excluded

- (4) If a film or computer game, if classified, would be likely to be classified RC or X 18+, an accredited person may not classify the film or computer game.

22L Board may revoke classification

Revocation of classification

- (1) If:
- (a) an accredited person has classified a film or computer game; and
 - (b) the Board is of the opinion that:
 - (i) had the film or computer game been classified by the Board, the Board would have given the film or computer game a different classification; or
 - (ii) the consumer advice for the film or computer game is misleading, incorrect or grossly inadequate; or
 - (iii) the consumer advice for the film or computer game uses a consumer advice term that is not included in the list determined by the Board under section 12A that was in force at the time the consumer advice was determined;
- the Board may revoke the classification.

Note: The regulations may prescribe circumstances in which consumer advice is taken to be misleading, incorrect or grossly inadequate: see subsection 93(2).

- (2) The Board may revoke the classification:
- (a) on its own initiative; or
 - (b) on request by the Minister or the Secretary of the Department; or
 - (c) if an application in accordance with subsection (7) is made within 3 months after the day the classification takes effect or within such longer period specified in a determination under subsection (8)—on application.

Note: For when the classification takes effect, see subsection 22K(2).

- (3) However, before the Board revokes the classification, the Director must give a notice in writing to the accredited person that:

- (a) states the grounds on which the Board is considering revoking the classification; and
- (b) invites the accredited person to make, within 7 days after receiving the notice, a submission to the Board as to why the Board should not revoke the classification.

Classification after revocation

- (4) If, after considering any submission received within that period, the Board decides to revoke the classification, the Board must classify the film or computer game.
- (5) The classification by the Board takes effect when it is included in either:
 - (a) the register, known as the National Classification Database, maintained by the Department; or
 - (b) any replacement register.

When revocation of classification takes effect

- (6) The revocation of the classification takes effect immediately before the classification by the Board takes effect.

Application for revocation

- (7) For the purposes of paragraph (2)(c) an application must:
 - (a) be in a form approved, in writing, by the Director; and
 - (b) if a class of persons is specified in a determination under subsection (8)—be made by a person included in that class; and
 - (c) be accompanied by the prescribed fee (if any).
- (8) The Secretary of the Department may, by legislative instrument, determine either or both of the following:
 - (a) a specified period for the purposes of paragraph (2)(c);
 - (b) a specified class of persons for the purposes of paragraph (7)(b).

Subdivision B—Accreditation

22M Secretary may accredit a person to classify films and computer games

- (1) A person may apply to the Secretary of the Department for accreditation to classify films and computer games for the Australian Capital Territory.
- (2) The application must:
 - (a) be in a form approved, in writing, by the Secretary; and
 - (b) be accompanied by a declaration made by the person to the effect that the person:
 - (i) has not been convicted of an offence against a law of the Commonwealth, or a law of a State or Territory, involving fraud or dishonesty; and
 - (ii) has not been ordered to pay a pecuniary penalty for the contravention of a civil penalty provision of a law of the Commonwealth, or a law of a State or Territory, involving fraud or dishonesty.
- (3) The Secretary may, in writing, accredit the person to classify films and computer games for the Australian Capital Territory for a specified period, if:
 - (a) the person has made an application in accordance with subsection (2); and
 - (b) the person has, within the previous 12 months, completed approved training in classification; and
 - (c) the person has paid the accreditation fee (if any) that relates to the specified period; and
 - (d) there is no notice under section 17B, 17C, 22F, 22H or 22Q in force in relation to the person; and
 - (e) the Secretary is not aware of any reason why the person is not a suitable person to classify films and computer games.

Note 1: For the approval of training, see section 22S.

Note 2: If the person has been requested to complete further training under 22N, the Secretary may not accredit the person for a further period until the person has completed the training: see subsection 22N(2).

Accreditation fee

- (4) For the purposes of paragraph (3)(c), the regulations may prescribe an accreditation fee in relation to a period to be paid by an accredited person for services that the Commonwealth (including the Board and the Secretary of the Department) provides in administering the classification of films and computer games by accredited persons under this Act.
- (5) A fee prescribed under subsection (4) must not be such as to amount to taxation.

Spent convictions scheme not affected

- (6) Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

22N Secretary may request accredited person complete further training

- (1) The Secretary of the Department may, in writing, request that an accredited person complete further approved training in classification within a specified period, if:
 - (a) during the previous 12 months, the Board has revoked 2 or more classifications by the person; or
 - (b) the Secretary considers that the training is otherwise necessary or desirable to ensure that the person is adequately trained and competent to perform the functions of an accredited person under this Act.

Note: For the approval of training, see section 22S.

- (2) Until the person has completed the training:
 - (a) the person may not classify a film or computer game under section 22K; and
 - (b) the Secretary may not accredit the person to classify films and computer games.

Note: If the person does not complete the further training with the specified period, the person's accreditation may be revoked under section 22P.

22P Secretary may revoke accreditation

- (1) The Secretary of the Department may, in writing, revoke the accreditation of a person to classify films and computer games if the Secretary is satisfied that one or more of the conditions mentioned in subsection (2) apply to the person.
- (2) The conditions are as follows:
 - (a) during the previous 12 months, the Board has revoked 3 or more classifications by the person;
 - (b) if the Secretary has, under section 22N, requested the person complete further approved training in classification within a specified period—the person has not completed the training within the specified period;
 - (c) the Secretary becomes aware of:
 - (i) the person having made a declaration under subsection 22M(2) that is false or misleading in a material particular; or
 - (ii) the person having been convicted of an offence against a law of the Commonwealth, or a law of a State or Territory, involving fraud or dishonesty; or
 - (iii) the person having been ordered to pay a pecuniary penalty for the contravention of a civil penalty provision of a law of the Commonwealth, or a law of a State or Territory, involving fraud or dishonesty; or
 - (iv) the person having purported to classify a film or computer game as RC or X 18+; or
 - (v) any other reason why the person is not a suitable person to classify films and computer games;
 - (d) the Board has revoked a classification by the person of a film or computer game on the grounds that had the film or computer game been classified by the Board, the Board would have given the film or computer game a classification of RC or X 18+;
 - (e) the person meets any other condition prescribed by the regulations.
- (3) If the accreditation of a person has been revoked under subsection (1), the person may not make an application under section 22M for the next 28 days.

22Q Barring notice to accredited person

- (1) The Secretary of the Department may give a written notice to a person if the Secretary is satisfied that one or more of the conditions mentioned in subsection (2) apply to the person.
- (2) The conditions are as follows:
 - (a) the Secretary has revoked the person's accreditation under section 22P more than once;
 - (b) the Board has revoked 2 or more classifications by the person of films or computer games in the person's most recent 3 accreditation periods and at least 2 of those classifications were revoked on the grounds that:
 - (i) had the film or computer game been classified by the Board, the Board would have given the film or computer game a classification that is 2 or more levels higher or lower; or
 - (ii) had the film or computer game been classified by the Board, the Board would have given the film or computer game a classification of RC or X 18+; or
 - (iii) the consumer advice was grossly misleading, grossly incorrect or grossly inadequate;
 - (c) the Board has revoked a classification by the person of a film or computer game on the grounds that had the film or computer game been classified by the Board, the Board would have given the film or computer game a classification of RC or X 18+;
 - (d) the person has purported to classify a film or computer game as RC or X 18+;
 - (e) the Secretary is of the opinion that the person knowingly made a declaration under subsection 22M(2) that is false or misleading in a material particular;
 - (f) the person meets any other condition prescribed by the regulations.

Note 1: If the Secretary gives a notice to a person under this section, the person cannot be accredited while the notice remains in force: see paragraph 22M(3)(d).

Note 2: The regulations may prescribe circumstances in which consumer advice is taken to be grossly misleading, grossly incorrect or grossly inadequate: see subsection 93(2).

- (3) The notice takes effect from the date specified in the notice and continues in force for the period specified in the notice. The period must not exceed 5 years.

22R Review by AAT

Applications may be made to the Administrative Appeals Tribunal for review of the following decisions of the Secretary of the Department:

- (a) decisions to refuse to accredit persons under subsection 22M(3);
- (b) decisions under subsection 22N(1), 22P(1) or 22Q(1).

Subdivision C—Other

22S Secretary may approve training

- (1) The Secretary of the Department may approve training for the purposes of paragraph 22M(3)(b) or section 22N.
- (2) The Secretary of the Department may charge a fee specified in the regulations for providing approved training.
- (3) A fee specified under subsection (2) must not be such as to amount to taxation.

22T Delegation

- (1) The Secretary of the Department may, in writing, delegate to an SES employee, or an acting SES employee, in the Department who has responsibility for classification matters any or all of the Secretary's powers and functions under the following provisions:
 - (a) paragraph 22L(2)(b) (request for revocation of classification);
 - (b) section 22M (accreditation);
 - (c) section 22N (further training);
 - (d) section 22P (revocation of accreditation);
 - (e) subsection 22S(1) (approved training).

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Secretary.

31 Division 5 of Part 2 (heading)

After “decisions”, insert “by the Board or Review Board”.

32 Section 28

Omit “A decision”, substitute “Unless this Act otherwise provides, a decision”.

33 Subsection 38(1)

Omit “the Board must not reclassify the publication, film or computer game”, substitute “the publication, film or computer game must not be reclassified”.

34 Section 41A

Omit “the applicant received notice of the decision”, substitute “the classification took effect”.

35 After section 41A

Insert:

41B Reviewable decisions

This Part applies to the following decisions:

- (a) a decision (as defined in section 5) of the Board;
- (b) a decision of an accredited person to classify a film or computer game under section 22K.

36 Subsections 42(1) and (2)

After “a decision”, insert “to which this Part applies”.

37 Subsection 42(5) (definition of *restricted decision*)

Omit “of the Board”.

38 Paragraph 43(3)(a)

Omit “the applicant received notice of the decision”, substitute “the classification took effect”.

39 Subsection 93(2) (heading)

After “*assessments of additional content*”, insert “*or consumer advice*”.

40 At the end of subsection 93(2)

Add:

- ; and (c) for the purposes of subparagraphs 22CH(1)(b)(ii) and 22L(1)(b)(ii)—circumstances in which consumer advice is taken to be misleading, incorrect or grossly inadequate; and
- (d) for the purposes of subparagraph 22Q(2)(b)(iii)—circumstances in which consumer advice is taken to be grossly misleading, grossly incorrect or grossly inadequate.

41 At the end of subsection 93(3)

Add:

- ; or (c) consumer advice is misleading, incorrect or grossly inadequate; or
- (d) consumer advice is grossly misleading, grossly incorrect or grossly inadequate.

Part 2—Application of amendments

42 Application of existing classification guidelines to accredited persons

- (1) Guidelines that:
- (a) were made for the purposes of section 12 of the *Classification (Publications, Films and Computer Games) Act 1995*; and
 - (b) were in force immediately before the commencement of this Schedule;
- have effect on and after the commencement of this Schedule as if the guidelines had been made for the purposes of section 12 of that Act, as amended by this Schedule.
- (2) Guidelines to which subsection (1) apply, apply in relation to the application of criteria in the Code to the classification of a film or a computer game by an accredited person in the same way the guidelines apply in relation to the application of criteria in the Code to the classification of a film or a computer game by the Board.

43 Saving of authorisations to assess computer games

An authorisation for the purposes of subsection 17(3) of the *Classification (Publications, Films and Computer Games) Act 1995* that:

- (a) was made under subsection 17(5) of that Act; and
- (b) was in force immediately before the commencement of this Schedule;

has effect on and after the commencement of this Schedule as if the authorisation had been made under section 17AA of that Act, as inserted by this Schedule.

Part 3—Consequential amendments

Broadcasting Services Act 1992

44 Subclause 1(1) of Schedule 2 (definition of *Classification Board*)

Repeal the definition.

45 Paragraphs 10(1)(f) and (g) of Schedule 2

Omit “by the Classification Board”, substitute “under the *Classification (Publications, Films and Computer Games) Act 1995*”.

46 Subclause 11(4) of Schedule 2

Omit “by the Classification Board”, substitute “under the *Classification (Publications, Films and Computer Games) Act 1995*”.

47 Subclause 2(1) of Schedule 6 (definition of *Classification Board*)

Repeal the definition.

48 Paragraphs 24(1)(e) and (f) of Schedule 6

Omit “by the Classification Board”, substitute “under the *Classification (Publications, Films and Computer Games) Act 1995*”.

49 Paragraphs 28(4)(a), (d) and (f) of Schedule 6

Omit “administered by the Classification Board”, substitute “provided for by the *Classification (Publications, Films and Computer Games) Act 1995*”.

Schedule 2—Other amendments

Part 1—Criteria for revocation in relation to consumer advice

Classification (Publications, Films and Computer Games) Act 1995

1 After section 12

Insert:

12A Board to determine list of consumer advice terms

- (1) The Board may, by legislative instrument, determine:
 - (a) a list of consumer advice terms, to be used in determining consumer advice for a film or computer game; and
 - (b) guidelines to assist in the use of such terms.
- (2) A determination under subsection (1) must not commence before the day that is 3 months, or such longer period prescribed by the regulations, after the day the determination is registered under the *Legislation Act 2003*.

2 Subsection 22CH(1)

Repeal the subsection, substitute:

Revocation of classification

- (1) If:
 - (a) a decision made by the operation of an approved classification tool in relation to a publication, film or computer game (the *relevant material*) is taken (because of the operation of section 22CF) to be a decision of the Board to classify the relevant material; and
 - (b) the Board is of the opinion that:
 - (i) had the relevant material been classified by the Board otherwise than because of the operation of that section,

Schedule 2 Other amendments

Part 1 Criteria for revocation in relation to consumer advice

the Board would have given the material a different classification; or

- (ii) the consumer advice for the relevant material is misleading, incorrect or grossly inadequate; or
- (iii) the consumer advice for the relevant material uses a consumer advice term that is not included in the list determined by the Board under section 12A that was in force at the time the consumer advice was determined;

the Board may revoke the classification.

Note: The regulations may prescribe circumstances in which consumer advice is taken to be misleading, incorrect or grossly inadequate: see subsection 93(2).

- (1A) In determining whether to revoke under subsection (1) a classification made by the operation of an approved classification tool, the Board must have regard to whether the tool is operating in accordance with any contract, arrangement or understanding entered into under section 22CC in relation to the tool.

3 Application of amendments

The amendments of the *Classification (Publications, Films and Computer Games) Act 1995* made by this Part apply in relation to a decision of the Board, made on or after the commencement of this Part, to revoke a classification (whether or not the classification was made before, on or after that commencement).

Part 2—Exemption for public library distribution of films in a language other than English

Classification (Publications, Films and Computer Games) Act 1995

4 Subsection 6B(1) (at the end of the table)

Add:

- | | | |
|----|-----------------------------|---|
| 16 | Language other than English | A film to which all of the following apply: <ul style="list-style-type: none">(a) the film is wholly in a language other than English (disregarding any minor and infrequent uses of the English language or any English language subtitles or captioning);(b) the film has been imported into Australia for the sole purpose of being included in the collection of one or more the following:<ul style="list-style-type: none">(i) a public library;(ii) a library of a tertiary educational institution;(c) the film is published in a physical format;(d) no more than 500 copies of the film in that format have been imported into Australia;(e) the film, if it were classified, would be likely to be classified G or PG |
|----|-----------------------------|---|

5 Application of amendments

The amendments of the *Classification (Publications, Films and Computer Games) Act 1995* made by this Part apply, on and after the commencement of this Part, in relation to a film imported into Australia before, on or after that commencement.

Part 3—Extension of conditional cultural exemptions

Classification (Publications, Films and Computer Games) Act 1995

6 Paragraph 6E(a)

Omit “as part of an event organised”.

Part 4—Deeming of films already classified under certain other Acts

Classification (Publications, Films and Computer Games) Act 1995

7 Section 5 (definition of *authorised television series assessor*)

Repeal the definition.

8 Section 5 (at the end of the definition of *classified*)

Insert:

Note: Certain films classified under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special Broadcasting Service Act 1991* are taken to be classified under this Act: see section 6HA.

9 Section 5 (definition of *television series film*)

Repeal the definition.

10 Section 6AA

Omit:

A publication, film or computer game that is shown as part of an event organised by an approved cultural institution may be subject to a conditional cultural exemption in relation to that showing.

substitute:

A publication, film or computer game that is shown by an approved cultural institution may be subject to a conditional cultural exemption in relation to that showing.

Films classified under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special*

Broadcasting Service Act 1991 are taken to be classified by the Board in some circumstances.

11 At the end of Part 1A

Add:

Division 3—Films classified under certain other Acts

6HA Certain films classified under certain other Acts are taken to be classified under this Act

- (1) A film is taken to have been classified by the Board under this Act if:
- (a) the film has been classified under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special Broadcasting Service Act 1991* at R18+ or a lower classification; and
 - (b) the film has not previously been classified under this Act; and
 - (c) after the film has been classified under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special Broadcasting Service Act 1991*, a person (the **post-classification publisher**) proposes to publish the film.

Note 1: This Act does not apply to the broadcasting of the film: see section 92.

Note 2: The deemed classification by the Board is reviewable under Part 5. The post-classification publisher may also seek to have the film reclassified under Part 2: see section 6HB.

- (2) The film is taken to have the same classification as the classification under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special Broadcasting Service Act 1991* that occurred most recently before the post-classification publisher proposes to publish the film.
- (3) The classification under this Act takes effect:
- (a) if the post-classification publisher is an entity that is licenced to provide broadcasting services under the *Broadcasting*

- Services Act 1992*—at the time the post-classification publisher proposes to publish the film; or
- (aa) if the post-classification publisher is the Australian Broadcasting Corporation or the Special Broadcasting Service Corporation—at the time the post-classification publisher proposes to publish the film; or
 - (b) otherwise—at the time the post-classification publisher provides a notice of the classification under subsection (4).

Notice of classification

- (4) A notice for the purposes of paragraph (3)(b) must:
 - (a) include details of the classification and the post-classification publisher; and
 - (b) be in a form approved by the Secretary of the Department.

Exceptions

- (5) Subsection (1) does not apply to a film if:
 - (a) the film is a modified version of the film classified under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special Broadcasting Service Act 1991* (other than a film that only has modifications of a kind referred to subsection 21(2) or (3)); or
 - (b) the film contains an advertisement that has been refused approval under this Act.

6HB Reclassification of films taken to be classified by the Board

If:

- (a) a film is taken to have been classified by the Board under this Act under section 6HA; and
- (b) the post-classification publisher of the film considers that the classification is not in accordance with the Code or the classification guidelines; and
- (c) the classification of the film has not been reviewed under Part 5; and
- (d) film has not been reclassified under Part 4 or reclassified under Part 2 due to a previous operation of this section;

Schedule 2 Other amendments

Part 4 Deeming of films already classified under certain other Acts

then, despite any other provision of this Act, the film may be reclassified under Part 2.

12 Sections 14B and 21AB

Repeal the sections.

13 Application of amendments

The amendments of the *Classification (Publications, Films and Computer Games) Act 1995* made by this Part apply, on and after the commencement of this Part, in relation to a film classified under the *Broadcasting Services Act 1992*, the *Australian Broadcasting Corporation Act 1983* or the *Special Broadcasting Service Act 1991* (whether or not the classification was made before, on or after that commencement).

[*Minister's second reading speech made in—
House of Representatives on 22 June 2023
Senate on 4 September 2023*]

(78/23)

28 *Classification (Publications, Films and Computer Games) Amendment* No. 65, 2023
 (Industry Self-Classification and Other Measures) Act 2023