

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 251

Issued by the Authority of the Minister for Home Affairs

*Classification (Publications, Films, and Computer Games) Amendment
Regulations 2008 (No. 2)*

The *Classification (Publications, Films and Computer Games) Act 1995* (the Act) facilitates the operation of the National Classification Scheme, a cooperative arrangement between the Commonwealth, States and Territories. Among other things, the Act establishes the Classification Board and Classification Review Board. Under the National Classification Scheme the Boards classify films (including videos and DVDs), computer games and certain publications.

Section 93 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act sets out the requirements for applications for the classification of films and requires that the prescribed fee be paid for those applications.

The *Classification (Publications, Films and Computer Games) Regulations 2005* (the Principal Regulations) prescribe fees for classification.

The Authorised Television Series Assessor scheme (the ATSA scheme) commences on 1 January 2009, and is a new approach to the classification of television series films released for sale or hire on DVD or other storage media. A television series film is one or more episodes of a television series plus any series related material that does not appear to be self-contained and produced for viewing as a discrete entity. To be eligible for the ATSA scheme, at least one episode included in the application must have already been broadcast in Australia.

Under the ATSA scheme, trained and authorised assessors known as Authorised Television Series Assessors may prepare an assessment and recommended classification for a television series film. The assessment is submitted to the Classification Board with the classification application.

Under the scheme, the Classification Board is still responsible for the classification of the product, but its decision may be informed by the assessment and classification recommendation.

Safeguards and sanctions applicable under the scheme include powers to revoke assessor's authorisations, powers to revoke classifications and powers to bar assessors and applicants from using the scheme under certain circumstances.

The ATSA scheme is modelled on other industry assessment schemes, namely the Additional Content Assessor scheme which was introduced in September 2007, and the Authorised Assessor scheme for computer games which has been operating for more than ten years.

The ATSA scheme is enabled by amendments to the Act made by Schedule 2 of the *Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Act 2008* (the Amendment Act). The ATSA scheme is set out in the *Classification (Authorised Television Series Assessor Scheme) Determination 2008* (the Determination). The relevant provisions in the Amendment Act and the Determination commence on 1 January 2009.

In order for the scheme to be operational on that date, a fee must be prescribed for applications that are submitted under the scheme.

The Regulations amend the Principal Regulations to prescribe a \$780 fee for applications for the classification of television series films that are submitted with an assessment by an Authorised Television Series Assessor.

The amendments to Principal Regulation 7 insert a new paragraph 7(1)(ba) which provides that the fee for a film, other than a film for public exhibition, that is a television series film submitted with an assessment by an Authorised Television Series Assessor, is the amount mentioned in item 1A in Division 1 of Part 3 of Schedule 1.

Schedule 1, Part 3, Division 1 of the Principal Regulations is amended to insert new item 1A which is a \$780 fee.

The Regulations also amend a reference in the heading in Schedule 1, Part 3 of the Principal Regulations to reflect amendments made by the Regulations.

The effect of these amendments is that the fee of \$780 applies to applications for the classification of television series films that are submitted under the ATSA scheme.

Industry has been consulted on a higher proposed ATSA fee amount of \$850. No significant concerns were raised in relation to the proposed fee. The actual fee is lower than the proposed fee on which industry was consulted because of costing activities associated with the full review of classification fees that were still underway at the time the proposed fee was released in October. Those activities have now been completed and as a result the application fee is lower than that which was originally proposed.

A Cost Recovery Impact Statement has been prepared in relation to the new fee.

Business compliance costs have been assessed as low and other impacts on business and individuals or the economy associated with the Regulations have been assessed as nil. As such, no Regulation Impact Statement was prepared for the Regulations.