

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 123

Issued by the Authority of the Minister for Home Affairs

*Classification (Publications, Films, and Computer Games) Amendment
Regulations 2009 (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 to the Classification Board (the Board) 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 applications to the Board.

The *Classification (Advertising of Unclassified Films and Computer Games) Determination 2009* (the Determination) commences on 1 July 2009. The Determination sets out new arrangements to allow unclassified films and computer games to be advertised.

Under the new arrangements, the existing prohibition on the advertising of unclassified films and unclassified computer games will be removed and such advertising permitted subject to conditions. These include a 'commensurate audience' rule for advertising that appears together with classified material. This will ensure that unclassified films and games that are advertised with classified films or games must have a 'likely' classification that is equal to or lower than the classification of the classified film or game. For example, if an unclassified film has been assessed as being likely to be classified M, it cannot be advertised with films or games that have been classified G or PG.

Assessments of a film or game's likely classification can be made by Authorised Advertising Assessors (ie, persons who are appropriately trained and authorised by the Director of the Classification Board for this purpose) or by the Classification Board.

The Determination is enabled by amendments to the Act made by Schedule 1 of the *Classification (Publications, Films and Computer Games) Amendment (Assessments*

and Advertising) Act 2008 (the Amendment Act). The relevant provisions in the Amendment Act and the Determination commence on 1 July 2009.

For the new arrangements to be fully operational on that date, a fee must be prescribed for applications to the Classification Board for an assessment of the likely classification of an unclassified film or computer game that are submitted under the Advertising Scheme.

The Amendment Act also repeals provisions in the Act which establish arrangements for the advertising of certain unclassified cinema release films. Under these arrangements, applications can be made to the Classification Board for certificates of exemption for a film for advertising purposes.

The Regulations amend the Principal Regulations to replace the \$510 fee for applications for certificates of exemption for a film for advertising purposes, with a \$510 fee for applications for an assessment of the likely classification of an unclassified film or computer game under the Advertising Scheme.

Principal Regulation 13 provided that the fee for applications for certificates of exemption for a film for advertising purposes was the amount mentioned in column 3 in item 3 in Part 8 of Schedule 1. Principal Regulation 13 is replaced by a new Regulation 13 which provides that, for paragraph 32(2)(f) of the Act, the fee for the assessment of the likely classification of an unclassified film or an unclassified computer game is the amount mentioned in column 3 of item 3 in Part 8 of Schedule 1.

The Regulations also replace Schedule 1, Part 8, item 3, column 2 of the Principal Regulations with the description of the new fee for an assessment of the likely classification of an unclassified film or unclassified computer game.

The effect of these amendments is to repeal the existing \$510 fee for an application for a certificate of exemption for a film for advertising purposes, and prescribe a \$510 fee for applications for an assessment of the likely classification of an unclassified film or computer game under the Advertising Scheme.

Industry has been consulted on the proposed new \$510 fee under the advertising scheme. No concerns were raised in relation to the fee. The fee is the same as the fee for applications for certificates of exemption for films for advertising purposes in recognition of the similarity in processes involved.

An interim Cost Recovery Impact Statement (CRIS) has been prepared and certified for the new fee. The fee will be reviewed in the context of a review of all fees for classification services which will conclude in late 2009. Full CRIS processes, including industry consultation, will occur in that context.

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.