

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2011 No. 160**

Issued by the Authority of the Minister for Justice  
*Classification (Publications, Films and Computer Games) Act 1995*  
*Classification (Publications, Films, and Computer Games)*  
*Amendment Regulations 2011 (No. 1)*

The *Classification (Publications, Films and Computer Games) Act 1995* (the Act) establishes the Classification Board (the Board) and Classification Review Board (Review Board) and sets out procedures for the classification of publications, films and computer games.

Section 93 of the Act provides, in part, that the Governor-General may make regulations 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 classification to the Board and the Review Board including that the prescribed fee be paid for those applications. The *Classification (Publications, Films and Computer Games) Regulations 2005* (the Principal Regulations) currently prescribe fees for applications to the Board and the Review Board.

The amending Regulations amend the Principal Regulations to prescribe new fees for applications for classification to the Board and the Review Board. The majority of fees have increased. However, some fees have been reduced and a small number remain unchanged. The changes in fees are designed to recover increased costs of providing classification services under the Act. The changes in the quantum of fees and structure of fee categories also reflect industry-led product developments and the movements in demand for classification services.

The amending Regulations replace Schedule 1 to the Principal Regulations with a new schedule of revised fees. Most of the fees in Schedule 1 to the Principal Regulations have not been changed since the Principal Regulations were made in 2005.

The amending Regulations also streamline the fee categories for computer games and create a new category of fees for applications for a certificate that an unclassified computer game is exempt from classification. This amends an oversight in the Principal Regulations which make no reference to an application for a certificate that an unclassified computer game is exempt from classification.

Details of the amending Regulations are included in the **Attachment**.

The table included in the attachment details the previous classification fees, the revised fees and the amounts by which these fees have either increased or decreased for all categories.

This information has been extracted from the publically available Cost Recovery Impact Statement (CRIS) which demonstrates compliance with the Australian Government Cost Recovery Guidelines and outlines in detail the changes to the fees for classification of publications, films and computer games. The CRIS is available on the Classification website at

[http://www.classification.gov.au/www/cob/classification.nsf/Page/IndustryFees\\_for\\_Classification](http://www.classification.gov.au/www/cob/classification.nsf/Page/IndustryFees_for_Classification)

The Attorney-General's Department has conducted extensive consultation with industry and other stakeholders both before formulation of the fees and after their release for comment in May 2010. The Department consulted with peak bodies to discuss the existing fee regime and canvass views on technological and product developments. The amending Regulations have no to low regulatory impacts on business and individuals.

The Regulations are a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The amending Regulations commence on 5 September 2011.

## **ATTACHMENT**

### **Details of the proposed Classification (Publications, Films and Computer Games) Amendment Regulations 2011 (No. 1)**

#### **Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Classification (Publications, films and Computer Games) Amendment Regulations 2011 (No. 1)*.

#### **Regulation 2 – Commencement**

This regulation provides for the Regulations to commence on 5 September 2011.

#### **Regulation 3 – Amendment of Classification (Publications, films and Computer Games) Regulations 2005**

This regulation provides that the *Classification (Publications, films and Computer Games) Regulations 2005* (the Principal Regulations) are amended as set out in Schedule 1.

#### **Schedule 1 – Amendments**

The amending Regulations prescribe new fees for applications of classification to the Board and Review Board. The majority of fees have increased. However, some fees have been reduced and a small number remain unchanged. The changes in fees are designed to recover costs. The amending Regulations streamline the game fee categories. The Principal Regulations contained six game fee categories, and the amending Regulations replace these game fee categories with four game fee categories.

##### **Item [1] – subregulation 4(1)**

This item replaces the definitions of *Assessed Computer Game – Level 1*, *Assessed Computer Game – Level 2* and *Assessed Computer Game – Level 3* in subregulation 4(1) of the Principal Regulations with a new definition for *Assessed Computer Game*. An ‘assessed computer game’ is defined as the category of computer game for which an application for the classification of a game is accompanied by an assessment of the game by an authorised person and recommends a classification of M or lower.

This combines the current three definitions for *Assessed Computer Game – Level 1*, *Assessed Computer Game – Level 2* and *Assessed Computer Game – Level 3* into one definition for *Assessed Computer Game*. This change simplifies the definition for *Assessed Computer Game*.

##### **Item [2] – subregulation 4(1)**

This item replaces the definitions of *Computer Game—Level 1* and *Computer Game—Level 2* in subregulation 4(1) of the Principal Regulations with new definitions for *Computer Game—Level 1* and *Computer Game—Level 2*.

Item [2] introduces two new categories for applications for classification of computer games which are not accompanied by an assessment of the game by an authorised person.

The *Computer Game—Level 1* category refers to an application for a computer game which is not accompanied by an assessment of the game by an authorised person. This computer game may, or may not, contain contentious material (material that is likely to cause the game to be classified M or higher). This computer game application is not accompanied by a separate recording displaying typical game play.

The *Computer Game—Level 2* category refers to an application for a computer game which is not accompanied by an assessment of the game by an authorised person, and is accompanied by a separate recording of typical game play. This computer game may, or may not, contain contentious material (material that is likely to cause the game to be classified M or higher). If it does contain contentious material the application must also be accompanied by a separate recording of that particular content.

Subregulation 4(1) of the Principal Regulations did not explicitly provide a category of fees for applications for a certificate that an unclassified computer game is an exempt computer game. New subregulation 4(1) establishes categories of fees for applications for a certificate that an unclassified computer game is an exempt computer game.

The *Computer Game—Level 1* category, for an application for a certificate that an unclassified computer game is an exempt computer game, refers to a computer game that contains contentious material (material that is likely to cause the game to be classified M or higher) and is not accompanied by a separate recording of typical game play.

The *Computer Game—Level 2* category, for an application for a certificate that an unclassified computer game is an exempt computer game, refers to computer games that do not contain material that could cause the game to be classified M or higher and are accompanied by a separate recording of typical game play.

### **Item [3] – subregulation 4(1)**

This item is a minor technical amendment and removes the term *Level* as it is unnecessary.

### **Items [4]–[6] – Regulation 15, subregulations 15(1) and 15(2)**

Subregulation 15(1) of the Principal Regulations provided that an applicant may apply to the Director of the Classification Board for the partial refund of an application fee paid, if the applicant withdraws the application for a classification of a publication, film or computer game before a decision has been made by the Board. The Principal Regulations did not make it explicit that an applicant is entitled to a full refund of an application fee in certain circumstances. New subregulations 15(1) and 15(2) clarify the provisions relating to refunds for classification application fees.

New subregulations 15(1) and 15(2) replace the term *partial refund* with *refund of all or part*. The effect of these new subregulations is to clarify that an applicant is entitled to claim a refund of all, or a refund of part of a fee paid for an application made to the Classification Board.

Item [4] amends the heading of regulation 15 in the Principal Regulations to reflect the amendments made by new subregulations 15(1) and 15(2).

### **Item [7]—subregulation 15(3)**

This item replaces subregulation 15(3) of the Principal Regulations and updates and clarifies the amount of fee to be refunded to an applicant after a classification application has been made.

Paragraph 15(3)(a) of the Principal Regulations provided that if the application for refund was made no later than 2 business days after the classification application was made—the applicant is entitled to a full refund of the amount paid. New paragraph 15(3)(a)(i) amends this time period to 1 business day after the application for classification has been made.

Paragraph 15(3)(b) of the Principal Regulations provided that if the application for refund was made in the period commencing 3 business days after the application for classification was made and ending at the end of 5 business days after the application for classification was made—the Director is entitled to retain \$120 of the amount of the fee paid. New paragraph 15(3)(b)(i) amends this to the period commencing 2 business days after the application for classification was made, and amends the amount the Director is entitled to retain to \$180 of the fee paid.

Paragraph 15(3)(c) of the Principal Regulations provided that if the application for refund was made 6 business days, or later, after the application for classification was made—the Director is entitled to retain \$280 of the amount of the fee paid. New paragraph 15(3)(c) amends the amount that the Director is entitled to retain to \$360 of the fee paid.

### **Items [8]–[10] – regulation 16, heading, subregulations 16(2) and 16(3)**

Regulation 16 of the Principal Regulations provided that an applicant may apply to the Director of the Classification Board for the partial refund of a review fee paid, if the applicant withdraws the application for review of a classification decision of a publication, film or computer game.

Items [9] and [10] amend subregulations 16(2) and 16(3) to replace the term *partial refund* with *refund of all or part*. This change is made so that an applicant can claim a refund of all, or a refund of part of a fee paid for an application made to the Classification Board.

Item [8] amends the heading of regulation 16 in the Principal Regulations to reflect the amendments made to subregulations 16(2) and 16(3).

### **Item [11]—before paragraph 16(4) (a)**

Subregulation 16(4) of the Principal Regulations did not explicitly provide for circumstances where an applicant is entitled to a full refund of a review fee paid.

This item inserts a new subregulation 16(4)(aa) and provides that if an applicant applied for an application for refund no later than 1 business day after the application for review was made—then they would be entitled to a refund of all of the review fee paid.

**Item [12] –subregulation 17(1) note**

This item replaces the note in subregulation 17(1) with a new note which updates the references to the regulations which set out the prescribed fees for the items listed in paragraphs (1)(a) to (d) of subregulation 17(1).

**Item [13] – Schedule 1**

This item replaces Schedule 1 to the Principal Regulations with a new schedule of revised fees for applications for classification to the Board and the Review Board.

## Classification Fees Table

<b>Computer Games</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
Computer Game Level 1	\$2,040	\$1,210	-\$830
Computer Game Level 2	\$1,150	\$890	-\$260
Assessed Computer Game	\$470	\$430	-\$40
Demonstrated Computer Game	\$1,070	\$2,460	\$1,390

Note: Fees for certificates that a computer game is exempt from classification correspond to the fees proposed above with the exception of the Assessed Computer Game category for which the exemption certificates do not apply.

<b>Publications</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
Standard 0-76 pages	\$520	\$420	-\$100
Standard 77-152 pages	\$590	\$480	-\$110
Standard 153-252 pages	\$690	\$560	-\$130
Standard 253-500 pages	\$890	\$790	-\$100
Standard 501-800 pages	\$1,260	\$1,230	-\$30
Standard >800 pages	\$1,840	\$1,860	\$20
Serial	\$1,130	\$1,080	-\$50
Revised	\$210	\$210	\$0

<b>ATSA (Authorised Television Series Assessor Scheme)</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
ATSA	\$780	\$640	-\$140

<b>Films Public Exhibition</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
Film PE 0-60 mins	\$990	\$1,180	\$190
Film PE 61-120 mins	\$1,830	\$2,180	\$350
Film PE 121-180 mins	\$2,300	\$2,760	\$460
Film PE 181-240 mins	\$2,860	\$3,540	\$680
Film PE >240 mins	\$5,090	\$6,540	\$1,450

Note: Fees for certificates that PE films are exempt from classification correspond to the fees above.



<b>Films Other</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fees</b>	<b>\$ Fee Movement</b>
0-60mins	\$510	\$550	\$40
61-120 mins	\$700	\$730	\$30
121-180 mins	\$840	\$900	\$60
181-240 mins	\$1,010	\$1,090	\$80
241-300 mins	\$1,180	\$1,290	\$110
301-400 mins	\$1,420	\$1,690	\$270
401-500 mins	\$1,660	\$2,010	\$350
501-600 mins	\$1,910	\$2,530	\$620
601-700 mins	\$2,120	\$2,830	\$710
701-800 mins	\$2,460	\$3,300	\$840
*801-900 mins	\$3,160	\$3,620	\$460
901-1000 mins		\$4,100	new fee type
1001-1100 mins		\$4,420	new fee type
1101-1200 mins		\$4,900	new fee type
1201-1300 mins		\$5,220	new fee type
1301-1400 mins		\$5,700	new fee type
1401-1500 mins		\$6,020	new fee type
1501-1600 mins		\$6,490	new fee type
1601-1700 mins		\$6,970	new fee type
1701-1800 mins		\$7,290	new fee type
1801-1900 mins		\$7,770	new fee type
1901-2000 mins		\$8,090	new fee type

Note: The fee for film other 800 minutes covered applications up to 1100 minutes in length. Due to the increasing number of applications over 1100 minutes, new additional fees were added.

<b>ACA (Additional Content Authorised Assessor Scheme)</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
ACA - Certified	\$430	\$480	\$50
ACA - Non-Certified	\$205	\$230	\$25

<b>Advertising</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
Assessment of likely classification of a film or game for advertising purposes	\$510	\$590	\$80
Certificates of Approval for Advertisements	\$450	\$470	\$20

<b>Section 87</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
Certificate of Verification	\$1,410	\$1,410	\$0
Statement of Content	\$710	\$475	-\$235
Certificate of Identification	\$710	\$475	-\$235

<b>PPF – Priority Processing Fee</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
Film - Other & Computer Games	\$400	\$420	\$20
Cancellation	\$300	\$300	\$0

Note: In relation to applications accompanied by a PPF, the fee for cancellation represents the maximum amount of the original classification fee paid that may not be refunded on cancellation.

<b>Other</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
Copy of Classification Certificate or Copy of S26 Notice of Decision	\$90	\$50	-\$40
Cancellation Stage 1	\$120	\$180	\$60
Cancellation Stage 2	\$280	\$360	\$80
Title Change - Film - Public Exhibition	\$600	\$190	-\$410
Title Change - Film - Other	\$390	\$190	-\$200
Title Change - Publications	\$360	\$190	-\$170
Title Change - Computer Games	\$460	\$190	-\$270

Note: The fees for cancellation represent the maximum amount of the original classification fee paid that may not be refunded on cancellation.

<b>Review of a Classification</b>			
<b>Product</b>	<b>Previous Fee</b>	<b>Revised Fee</b>	<b>\$ Fee Movement</b>
Review of a Classification	\$8,000	\$10,000	\$2,000
Cancellation Stage 1	\$1,600	\$1,600	\$0
Cancellation Stage 2	\$4,000	\$4,000	\$0