



# **Classification of Computer Games and Images Act 1995**

**Current as at 1 December 2009**

# Information about this reprint

This Act is reprinted as at 1 December 2009. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use different spelling consistent with current drafting practice (s 26(2))
- use aspects of format and printing style consistent with current drafting practice (s 35)
- correct minor errors (s 44).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including table of corrected minor errors**
- **editorial changes made in earlier reprints.**

## Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

## Dates shown on reprints

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

**Replacement reprint date** If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

# Classification of Computer Games and Images Act 1995

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# Classification of Computer Games and Images Act 1995

[as amended by all amendments that commenced on or before 1 December 2009]

**An Act to provide for the classification of computer games and images, and for other purposes**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Classification of Computer Games and Images Act 1995*.

### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

### **3 Definitions and dictionary**

The dictionary in schedule 2 defines particular words used in this Act.

## **Part 2**                      **Classification of computer games**

### **4**                      **Classification under the Commonwealth Act**

- (1) Subject to subsection (1A), if a computer game is not classified under this Act but is classified under the Commonwealth Act, its classification under the Commonwealth Act has effect for this Act.
- (1A) If a computer game is a film for the Commonwealth Act and is classified under the Commonwealth Act, its classification for this Act is—
- (a) for a computer game that, under the Commonwealth Act, is a film classified G—G; or
  - (b) for a computer game that, under the Commonwealth Act, is a film classified PG—PG; or
  - (c) for a computer game that, under the Commonwealth Act, is a film classified M—M; or
  - (d) for a computer game that, under the Commonwealth Act, is a film classified MA 15+—MA 15+; or
  - (e) for a computer game that, under the Commonwealth Act, is a film classified R 18+, X 18+ or RC—RC.
- (2) If—
- (a) a computer game is classified under this Act; and
  - (b) the computer game is later classified under the Commonwealth Act;
- the classification under the Commonwealth Act has no effect for this Act and the game is taken not to be classified under the Commonwealth Act.

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## 5 **Classification of computer games by computer games classification officer**

- (1) If a computer game is not classified, the computer games classification officer may classify the game.
- (2) The computer games classification officer may act on the officer's own initiative or because of representations made about the game to the officer.
- (3) For this section, the following provisions of the Commonwealth Act apply, with all necessary changes, as if they were part of this Act—
  - section 7(3)
  - section 9
  - section 11
  - section 20
  - the National Classification Code, to the extent it relates to computer games
  - definitions relevant to the provisions, unless the term is defined in this Act or the *Acts Interpretation Act 1954*.

- (4) In this section—

*National Classification Code* means the Code under the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth).

## 6 **Reclassification of computer games**

- (1) This section applies if the computer games classification officer is satisfied a computer game classified under section 5 should have a different classification.
- (2) The computer games classification officer may set the classification aside and again classify the game under section 5.

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## **7 Production of computer game for classification or reclassification**

- (1) For sections 5 and 6, the computer games classification officer may, by written notice given to a person (the ***publisher***) who publishes a computer game, require the publisher to give the officer a copy of the game.
- (2) The publisher must comply with the notice within 3 business days after receiving it.  
Maximum penalty—20 penalty units.
- (3) It is a defence to a prosecution for an offence against subsection (2) for the defendant to prove that the defendant did not have a copy of the computer game.
- (4) If a copy of a computer game is given to the computer games classification officer under this section, the officer must promptly classify the game under section 5 or reclassify the game under section 6.
- (5) When the game is classified the computer games classification officer must immediately return the game to the publisher.
- (6) Subsection (5) does not apply to a computer game that is classified RC because it is a child abuse computer game.

## **7A Reclassification notice**

- (1) If the computer games classification officer reclassifies a computer game under section 6, the officer must give written notice of the reclassification to—
  - (a) the applicant for the reclassification; or
  - (b) if there was no applicant for the reclassification—the person who the officer reasonably believes has an interest in the matter, whether as the computer game’s publisher or otherwise.
- (2) The reclassification takes effect on the day the officer gives the notice.

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## **8 Review by QCAT of classification decision**

- (1) If the computer games classification officer classifies a computer game under section 5, a person whose interests are adversely affected by the decision may apply, as provided under the QCAT Act, to QCAT for a review of the decision.
- (2) The QCAT Act, section 157 does not apply to the decision.

*Note—*

However, the person may obtain a written statement of the reasons for the decision under the QCAT Act, section 158 or 159.

## **8A Calling in computer game for reclassification by board**

- (1) This section applies if—
  - (a) the board proposes to reclassify a computer game under the Commonwealth Act, section 39; and
  - (b) the publisher of the computer game resides in Queensland or has an office in Queensland.
- (2) The director or the computer games classification officer may, by written notice given to the publisher, require the publisher to submit a copy of the computer game for the purpose of reclassifying it.
- (3) The publisher must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.
- (4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not have a copy of the computer game.

## **8B Obtaining copies for review**

- (1) This section applies if—
  - (a) an application is made for a review of a classification decision under the Commonwealth Act by a person who is not the original applicant for classification of the computer game concerned; and

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- (b) the board or review board does not have a copy of the computer game and a copy is not available to it; and
  - (c) the original applicant or the publisher of the computer game resides in Queensland or has an office in Queensland.
- (2) The convenor or the computer games classification officer may, by written notice given to the original applicant or publisher, require the original applicant or publisher to make a copy of the computer game available for the purpose of the review.
- (3) A person to whom the notice is given must comply with the notice within 3 business days after receiving it.
- Maximum penalty—20 penalty units.
- (4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not have a copy of the computer game.

### **8C Calling in unclassified computer game for classification**

- (1) This section applies if the director or the computer games classification officer has reasonable grounds to believe that—
- (a) an unclassified computer game is not an exempt computer game; and
  - (b) a person (***publisher***) is publishing, or will publish, the computer game in Queensland.
- (2) The director or the computer games classification officer may, by written notice given to the publisher of the computer game, require the publisher to submit an application for classification of the computer game.
- (3) For the requirement under subsection (2) to have effect—
- (a) if the director makes the requirement—the director must cause notice of the requirement to be published in the Commonwealth gazette; or

- 
- (b) if the computer games classification officer makes the requirement—the officer must cause notice of the requirement to be gazetted.
  - (4) The publisher must comply with the notice within 3 business days after receiving it.  
Maximum penalty—20 penalty units.
  - (5) It is a defence to a prosecution for an offence against subsection (4) for the defendant to prove that the defendant did not intend—
    - (a) to publish the computer game in Queensland; or
    - (b) to cause, authorise, permit or license the computer game to be published in Queensland.

## **Part 3                      Demonstration of computer games**

### **9            Prohibition against demonstration of unclassified computer game**

- (1) A person must not demonstrate, or attempt to demonstrate, an unclassified computer game in a public place.  
Maximum penalty—
  - (a) 5 penalty units for a computer game that, if it were classified, would be classified as a PG or M computer game; or
  - (b) 20 penalty units for a computer game that, if it were classified, would be classified as an MA 15+ computer game; or
  - (c) 150 penalty units or imprisonment for 1 year for a computer game that, if it were classified, would be classified as an RC computer game.

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- (2) Subsection (1) applies to a computer game published before the commencement of this Act only if the game is an objectionable computer game.

## **10 Restriction on demonstration of MA 15+ computer game**

- (1) A person must not demonstrate, or attempt to demonstrate, in a public place an MA 15+ computer game if a child under 15 years who is not accompanied by an adult is present.

Maximum penalty—10 penalty units.

- (2) A person does not commit an offence against subsection (1) if the person reasonably believes the child is at least 15 years or is accompanied by an adult when the game is demonstrated.

- (3) A person must not demonstrate, or attempt to demonstrate, in a public place an MA 15+ computer game unless the determined markings for the game are displayed before the game is demonstrated.

Maximum penalty—10 penalty units.

## **10A Prohibition against demonstration of certain classified computer games**

- (1) A person must not demonstrate, or attempt to demonstrate, a classified computer game in a public place unless it is demonstrated with the same title as the title under which it is classified.

Maximum penalty—20 penalty units.

- (2) A person must not demonstrate, or attempt to demonstrate, a classified computer game in a public place unless it is demonstrated in the form, without alteration or addition, in which it is classified.

Maximum penalty—20 penalty units.

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**10B Computer game available for playing on pay and play basis to bear determined markings and consumer advice**

- (1) A person must not make a computer game available for playing on a pay and play basis unless the device used for playing the game bears the determined markings for the game's classification and any consumer advice for the game.

Maximum penalty—10 penalty units.

*Example of game available on a pay and play basis—*

a coin operated arcade game

- (2) If 2 or more computer games are available for playing on a device mentioned in subsection (1), the determined markings and consumer advice to be displayed on the device are those relevant to the computer game with the higher or highest classification under the Commonwealth Act.
- (3) If—
- (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
  - (b) the board revokes a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3);

display of the determined markings and consumer advice for the computer game before the reclassification or revocation is sufficient compliance with this section for the 30-day period after the reclassification or revocation takes effect.

## **Part 4 Advertising and supply of computer games**

### **11 Publishing advertisements**

- (1) A person must not use, or attempt to use, an advertisement for a computer game if, under the Commonwealth Act—

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- (a) an application for approval of the advertisement—
  - (i) has not been made; and
  - (ii) if it were made, would be refused; or
- (b) approval of the advertisement has been refused.

Maximum penalty—60 penalty units.

- (2) A person must not publish, or attempt to publish, an advertisement approved under the Commonwealth Act for a computer game other than in the form in which the advertisement was approved.

Maximum penalty—60 penalty units.

- (3) A person must not publish, or attempt to publish, an advertisement approved under the Commonwealth Act for a computer game other than under the conditions (if any) on which the approval was given.

Maximum penalty—60 penalty units.

## **12 Advertisement to contain determined markings and consumer advice**

- (1) A person must not publish an advertisement for a classified computer game unless its determined markings and consumer advice (if any) are—

- (a) contained in the advertisement; and
- (b) displayed—
  - (i) in the way determined under the Commonwealth Act; and

*Note—*

See the Commonwealth Act, section 8.

- (ii) so they are clearly visible, having regard to the advertisement's size and nature.

Maximum penalty—10 penalty units.

- (2) If a computer game is reclassified, display of the determined markings and consumer advice applicable to the game before

reclassification is sufficient compliance with subsection (1) for the 30-day period immediately after the reclassification takes effect.

*Note—*

See section 7A and the Commonwealth Act, section 28.

### **13 False advertising of computer games**

- (1) A person must not publish, or attempt to publish, an advertisement for a classified computer game indicating the computer game is unclassified or has a classification other than its classification under the Commonwealth Act or this Act.

Maximum penalty—60 penalty units.

- (2) A person must not publish, or attempt to publish, an advertisement for an objectionable computer game.

Maximum penalty—60 penalty units or imprisonment for 6 months.

### **13A Prohibition against advertising certain computer games**

- (1) A person must not publish, or attempt to publish, an advertisement for an unclassified computer game, unless the advertisement is allowed under the Commonwealth Act.

Maximum penalty—60 penalty units.

*Note—*

The Commonwealth Act, section 31 provides for the Commonwealth Minister, by legislative instrument, to determine a scheme for the advertising of unclassified computer games.

- (2) A person must not publish, or attempt to publish, an advertisement for a computer game that, under the Commonwealth Act, is a film classified R 18+, X 18+ or RC.

Maximum penalty—60 penalty units.

[s 13B]

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### **13B Power to require certain advertisements to be submitted for approval**

- (1) The director or the computer games classification officer may, by written notice given to the publisher of a computer game that is being published in Queensland, or that the director or the computer games classification officer reasonably believes will be published in Queensland, require the publisher to submit to the board for approval a copy of each advertisement used or intended to be used in connection with the publication.
- (2) A person to whom a notice under this section is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

### **13C Defence to prosecution under section 13B**

It is a defence to a prosecution for an offence under section 13B, in relation to a computer game the director or the computer games classification officer reasonably believes will be published in Queensland, for the defendant to prove that the defendant did not intend to publish, or authorise or cause someone else to publish, the publication in the State.

### **14 Markings and consumer advice on containers**

A person must not sell, or attempt to sell, a computer game unless the container, wrapping or casing in which the computer game is contained, bears the determined markings for the game's classification and its consumer advice (if any).

Maximum penalty—10 penalty units.

### **15 Display of classifications notices**

- (1) A person who sells, or attempts to sell, a classified computer game in a public place must keep a classifications notice for computer games, or, if the computer game is a film under the Commonwealth Act, a classifications notice for films,

displayed prominently in the public place so it is clearly visible to the public.

Maximum penalty—10 penalty units.

(2) In this section—

*classifications notice* means a notice, in the form approved by the director and published in the Commonwealth gazette, about—

- (a) for computer games—the classifications for computer games; or
- (b) for films—the classifications for films.

## **16 Classified computer games containing advertisements for other computer games**

A person must not sell, or attempt to sell, a classified computer game containing an advertisement for—

- (a) if the computer game is classified as a G computer game—a computer game classified as a PG, M or MA 15+ computer game or an objectionable computer game; or
- (b) if the computer game is classified as a PG computer game—a computer game classified as an M or MA 15+ computer game or an objectionable computer game; or
- (c) if the computer game is classified as an M computer game—a computer game classified as an MA 15+ computer game or an objectionable computer game; or
- (d) if the computer game is classified as an MA 15+ computer game—an objectionable computer game; or
- (e) an unclassified computer game, unless the advertisement is allowed under the Commonwealth Act.

Maximum penalty—10 penalty units.

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*Note for paragraph (e)—*

The Commonwealth Act, section 31 provides for the Commonwealth Minister, by legislative instrument, to determine a scheme for the advertising of unclassified computer games.

## **17 Display for sale of MA 15+ computer game**

A person who displays, or attempts to display, for sale an MA 15+ computer game or an advertisement for an MA 15+ computer game must comply with the conditions prescribed under a regulation.

Maximum penalty—10 penalty units.

## **18 Sale of MA 15+ computer game to certain children prohibited**

- (1) A person must not sell or deliver, or attempt to sell or deliver, an MA 15+ computer game to a child under 15 years unless the child is accompanied by an adult.

Maximum penalty—20 penalty units.

- (2) A person does not commit an offence against subsection (1) if the person reasonably believes the child is at least 15 years or is accompanied by an adult.
- (3) Also, a person does not commit an offence against subsection (1) about the delivery of a computer game if—
- (a) the child is employed by a person in a business of selling computer games; and
  - (b) the delivery takes place in the course of the employment.

## **19 Sale of unclassified computer games prohibited**

- (1) A person must not sell, or attempt to sell, an unclassified computer game.

Maximum penalty—

- (a) 5 penalty units for a computer game that, if it were classified, would be classified as a PG or M computer game; or
  - (b) 10 penalty units for a computer game that, if it were classified, would be classified as an MA 15+ computer game; or
  - (c) 150 penalty units for a computer game that has been, or would have been, classified RC.
- (2) Subsection (1) applies to a computer game published before the commencement of this Act only if the game is an objectionable computer game.

**20 Sale of improperly marked unclassified computer games prohibited**

A person must not sell, or attempt to sell, an unclassified computer game if the container, wrapping or casing in which the computer game is contained bears a marking or other thing indicating or suggesting the computer game has been classified.

Maximum penalty—60 penalty units or imprisonment for 6 months.

**21 Sale of improperly marked classified computer games**

A person must not sell, or attempt to sell, a classified computer game if the container, wrapping or casing in which the computer game is contained bears a mark or other thing indicating the computer game is not classified or has a classification other than the classification it has under this Act.

Maximum penalty—60 penalty units or imprisonment for 6 months.

[s 21A]

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**21A Prohibition against selling certain classified computer games**

- (1) A person must not sell a classified computer game in a public place unless it is sold with the same title as the title under which it is classified.

Maximum penalty—60 penalty units.

- (2) A person must not sell a classified computer game in a public place unless it is sold in the form, without alteration or addition, in which it is classified.

Maximum penalty—60 penalty units.

## **Part 5 Objectionable computer games**

**22 Public demonstration of objectionable computer game**

A person must not demonstrate, or attempt to demonstrate, an objectionable computer game in a way that it can be seen by persons in a public place.

Maximum penalty—20 penalty units.

**23 Demonstration of an objectionable computer game before a minor**

A person must not demonstrate, or attempt to demonstrate, an objectionable computer game in the presence of a child.

Maximum penalty—10 penalty units.

**24 Sale of objectionable computer game prohibited**

A person must not sell, or attempt to sell, an objectionable computer game.

Maximum penalty—60 penalty units or imprisonment for 6 months.

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**25 Keeping together of classified and objectionable computer games**

A person must not, on premises on or from which classified computer games are sold, keep or have possession of an objectionable computer game.

Maximum penalty—60 penalty units or imprisonment for 6 months.

**26 Possession of objectionable computer game**

- (1) A person must not have possession of an objectionable computer game to sell it.

Maximum penalty—60 penalty units or imprisonment for 6 months.

- (2) A person must not have possession of an objectionable computer game to demonstrate it in a public place.

Maximum penalty—250 penalty units or imprisonment for 2 years.

- (3) A person must not knowingly have possession of a child abuse computer game.

Maximum penalty—250 penalty units or imprisonment for 2 years.

**27 Making objectionable computer game**

- (1) A person must not, for gain, make or produce, or attempt to make or produce, an objectionable computer game.

Maximum penalty—250 penalty units or imprisonment for 2 years.

- (2) A person must not, for gain, copy, or attempt to copy, an objectionable computer game.

Maximum penalty—250 penalty units or imprisonment for 2 years.

- (3) A person must not make or produce, or attempt to make or produce, a child abuse computer game.

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Maximum penalty—1000 penalty units or imprisonment for 5 years.

- (4) A person must not copy, or attempt to copy, a child abuse computer game.

Maximum penalty—800 penalty units or imprisonment for 3 years.

## **28 Obtaining minor for objectionable computer game**

A person must not obtain, or attempt to obtain, a minor to be in any way concerned in the making or production of an objectionable computer game.

Maximum penalty—800 penalty units or imprisonment for 3 years.

## **29 No liability in certain circumstances**

A person is not guilty of an offence against section 26 or 27 in relation to an objectionable computer game of the kind other than that mentioned in the definition *objectionable computer game* paragraph (b), (c) or (d) if—

- (a) the person took all reasonable steps to obtain classification of the computer game under the ordinance, having regard to the stage of making or production of the computer game or the time that has elapsed since making or production of the computer game; and
- (b) the person believes on reasonable grounds that the computer game will be classified.

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## **Part 6 Investigation and enforcement**

### **Division 1 Administration generally**

#### **30 Appointment of inspectors**

- (1) The chief executive may appoint any of the following persons to be an inspector—
  - (a) a public service officer;
  - (b) a police officer.

*Note—*

A proposed appointment of a police officer must have the approval of the commissioner of the police service under the *Police Powers and Responsibilities Act 2000*, section 13.

- (2) The chief executive may appoint a person mentioned in subsection (1)(a) to be an inspector only if the chief executive believes the person has the necessary expertise or experience to be an inspector.

#### **31 Terms of appointment of inspectors**

An inspector holds office under the conditions stated in the instrument of appointment.

#### **32 Identity cards**

- (1) This section does not apply to an inspector who is a police officer.
- (2) The chief executive must give each inspector an identity card.
- (3) The identity card must—
  - (a) contain a recent photograph of the person; and
  - (b) be signed by the person; and
  - (c) identify the person as an inspector under this Act.

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- (4) A person who stops being an inspector must return the person's identity card to the chief executive as soon as practicable (but within 21 days) after the person stops being an inspector, unless the person has a reasonable excuse.

Maximum penalty—5 penalty units.

- (5) This section does not prevent the giving of a single identity card to the person for this and other Acts.

### **33 Production or display of inspector's identity card**

- (1) This section does not apply to a police officer.
- (2) An inspector may exercise a power in relation to a person only if—
- (a) the inspector first produces the inspector's identity card for the person's inspection; or
  - (b) the inspector has the inspector's identity card displayed so it is clearly visible to the person.
- (3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the inspector must produce the identity card as soon as it is practicable.

## **Division 2 Inspector's entry to places and vehicles**

### **34 Entry to place by inspectors**

- (1) An inspector may enter a place if—
- (a) its occupier consents to the entry; or
  - (b) the entry is authorised by a warrant.
- (2) However, an inspector may, without the occupier's consent or a warrant, enter—
- (a) a public place when the place is open to the public; or

- 
- (b) the land around the premises to ask its occupier for consent to enter the premises.

### **35 Consent to entry**

- (1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place.
- (2) Before asking for the consent, the inspector must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the inspector may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
  - (a) that the occupier was told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) that the occupier gives the inspector consent to enter the place and exercise powers under this part; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs an acknowledgement of consent, the inspector must immediately give a copy to the occupier.
- (6) Subsection (7) applies to a court if—
  - (a) an issue arises, in a proceeding in or before the court, whether the occupier of a place consented to an inspector entering the place under this part; and
  - (b) an acknowledgement under this section is not produced in evidence for the entry; and
  - (c) it is not proved that the occupier consented to the entry.
- (7) The court may presume that the occupier did not consent.

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### **36 Warrants**

- (1) An inspector may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the application to be given by statutory declaration.

- (4) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
  - (b) the evidence is, or may be within the next 7 days, at the place.
- (5) The warrant must state—
  - (a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector's powers under this part; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 7 days after the warrant's issue, when the warrant ends.

### **37 Warrants—applications made other than in person**

- (1) An inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the inspector's remote location.
- (2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
  - (3) The inspector may apply for the warrant before the application is sworn.
  - (4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to fax the copy.
  - (5) If it is not reasonably practicable to fax a copy of the warrant to the inspector—
    - (a) the magistrate must—
      - (i) tell the inspector what the terms of the warrant are; and
      - (ii) tell the inspector the date and time the warrant was issued; and
    - (b) the inspector must complete a form of warrant (**warrant form**) and write on it—
      - (i) the magistrate's name; and
      - (ii) the date and time the magistrate issued the warrant; and
      - (iii) the terms of the warrant.
  - (6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.
  - (7) The inspector must, at the first reasonable opportunity, send the magistrate—
    - (a) the sworn application; and

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- (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) Subsection (10) applies to a court if—
  - (a) an issue arises, in a proceeding in or before the court, whether a power exercised by an inspector was not authorised by a warrant issued under this section; and
  - (b) the warrant is not produced in evidence.
- (10) The court must presume that the exercise of the power was not authorised by a warrant issued under this section, unless the contrary is proved.

### **38 General powers after entering places**

- (1) This section applies to an inspector who enters a place.
- (2) For monitoring or enforcing compliance with this part, the inspector may—
  - (a) search any part of the place; or
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
  - (c) demonstrate a computer game at the place; or
  - (d) copy a document or computer game at the place; or
  - (e) take into or onto the place any persons, equipment and materials the inspector reasonably requires for exercising a power under this part; or
  - (f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the powers under paragraphs (a) to (e).
- (3) A person must comply with a requirement under subsection (2)(f), unless the person has a reasonable excuse for not complying.

Maximum penalty—10 penalty units.

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- (4) If the requirement is to be complied with by the person giving information, or producing a document (other than a document required to be kept by the person under this part), it is a reasonable excuse for the person to fail to comply with the requirement, if complying with the requirement might tend to incriminate the person.
  - (5) This section applies to an inspector who enters a place to get the occupier's consent only if the consent is given or the entry is otherwise authorised.

### **39 Entry and search of vehicles etc.**

- (1) This section applies to an inspector who reasonably suspects—
  - (a) a vehicle is being, or has just been, used to commit an offence; or
  - (b) a vehicle, or a thing in a vehicle, may provide evidence of an offence that is being, or has just been, committed.
- (2) The inspector may—
  - (a) enter the vehicle, using necessary and reasonable help and force; or
  - (b) search any part of the vehicle; or
  - (c) demonstrate a computer game in the vehicle; or
  - (d) inspect, measure, test, photograph or film any part of the vehicle or anything in the vehicle; or
  - (e) copy a document or a computer game in the vehicle; or
  - (f) take into the vehicle the persons, equipment and materials the inspector reasonably requires for exercising a power under this section; or
  - (g) require the person in control of the vehicle to give the inspector reasonable help to exercise the powers mentioned in paragraphs (a) to (f).

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- (3) A person must comply with a requirement under subsection (2)(g), unless the person has a reasonable excuse for not complying.

Maximum penalty—10 penalty units.

- (4) Before entering an unattended vehicle, an inspector must take reasonable steps to advise its owner, or the person in control of it, of the intention to enter.

#### **40 Power to enable vehicle to be entered**

- (1) This section applies if an inspector intends to enter a vehicle.
- (2) If the vehicle is moving or about to move, the inspector may require the person in control of the vehicle to stop or not to move it.
- (3) The requirement may be given by a sign or hand signal.
- (4) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse for not complying.

Maximum penalty—50 penalty units.

### **Division 3 Power to seize evidence**

#### **41 Power to seize evidence**

- (1) An inspector who enters a place with the occupier's consent may seize a thing in the place if—
- (a) the inspector reasonably believes the thing is evidence of an offence against this Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (2) An inspector who enters a place with a warrant may seize the evidence for which the warrant was issued.

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- (3) An inspector may also seize anything else at a place or in a vehicle if the inspector reasonably believes—
    - (a) the thing is evidence of an offence against this Act; and
    - (b) the seizure is necessary to prevent the thing being hidden, lost, or destroyed or used to continue or repeat the offence.
  - (4) Also, an inspector may seize a thing if the inspector reasonably believes it has just been used in committing an offence against this Act.

#### **42 Additional power of inspector to seize computer games**

- (1) This section applies if—
  - (a) someone makes representations to the computer games classification officer about a computer game; and
  - (b) the computer games classification officer reasonably believes the computer game is an objectionable computer game.
- (2) The computer games classification officer may direct an inspector to seize the computer game from any public place when the place is open to the public.
- (3) The inspector may seize the computer game from the place.
- (4) An inspector who seizes a computer game under subsection (3) must, as soon as practicable, submit the computer game to the computer games classification officer for classification.
- (5) If a computer game seized under subsection (3) is classified as a G, G(8+), M(15+) or an MA(15+) computer game, the inspector must immediately return the computer game to the person from whom it was seized.

#### **43 Powers supporting seizure**

- (1) Having seized a thing, an inspector may—
  - (a) move the thing from the place or vehicle where it was seized (the *place of seizure*); or

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- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

*Examples of restricting access to a thing—*

- 1 sealing a thing and marking it to show access to it is restricted
  - 2 sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted
- (2) If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing or something restricting access to the thing without an inspector's approval.  
Maximum penalty—60 penalty units.
- (3) To enable a thing to be seized, an inspector may require the person in control of it—
- (a) to take it to a stated reasonable place by a stated reasonable time; and
  - (b) if necessary—to remain in control of it at the stated place for a reasonable time.
- (4) The requirement—
- (a) must be made by notice in the approved form; or
  - (b) if for any reason it is not practicable to give the notice—may be made orally and confirmed by notice in the approved form as soon as practicable.
- (5) The person must comply with the requirement, unless the person has a reasonable excuse for not complying.  
Maximum penalty—60 penalty units.
- (6) A further requirement may be made under this section in relation to the same thing if it is necessary and reasonable to make the further requirement.

#### **44 Receipt for seized things**

- (1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

- (2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt in a conspicuous position and in a reasonably secure way at the place of seizure.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the notice required by the section (given the thing's nature, condition and value).

#### **45 Return of seized things**

- (1) The inspector must return a seized thing to its owner at the end of—
  - (a) 1 year; or
  - (b) if a proceeding for an offence involving it is started within the year—the proceeding and any appeal from the proceeding.
- (2) Despite subsection (1), the inspector must immediately return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.
- (3) Subsections (1) and (2) do not apply to a seized thing that is a child abuse computer game.

#### **46 Access to seized things**

- (1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.
- (3) Also, subsection (1) does not apply if the seized thing is a child abuse computer game.

## **Division 4                      General powers**

### **47            Power to require name and address**

- (1) This section applies if—
  - (a) an inspector finds a person committing an offence against this Act; or
  - (b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.
- (2) The inspector may require the person to state the person's name and residential address.
- (3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.
- (5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.  
Maximum penalty—50 penalty units.
- (6) A person does not commit an offence against subsection (5) if—
  - (a) the person was required to state the person's name and address by an inspector who suspected the person had committed an offence; and
  - (b) the person is not proved to have committed the offence.

### **49            Power to require information**

- (1) This section applies if an inspector reasonably believes—
  - (a) an offence against this Act has just been committed; and

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- (b) a person may be able to give information about the offence.
- (2) The inspector may require the person to give information about the offence.
- (3) When making the requirement, the inspector must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.
- (4) The person must give the information, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (5) It is a reasonable excuse for an individual to fail to give information if complying with the requirement might tend to incriminate the individual.

## **Division 5            Other enforcement matters**

### **50        False or misleading statements**

- (1) A person must not—
- (a) state anything to an inspector that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an inspector anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

### **51        Obstructing inspector**

- (1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse for the obstruction.

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Maximum penalty—50 penalty units.

- (2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person.
- (3) In warning a person under subsection (2), an inspector must warn the person that—
  - (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and
  - (b) the inspector considers the person's conduct is an obstruction; and
  - (c) if the person continues or repeats the conduct, a police officer may be asked to help enforce this section.

### **53 Impersonating inspectors**

A person must not pretend to be an inspector.

Maximum penalty—100 penalty units or imprisonment for 6 months.

### **54 Inspector to give notice of damage**

- (1) This section applies if—
  - (a) an inspector damages something when exercising or purporting to exercise a power; or
  - (b) a person (the *other person*) acting under the direction of an inspector damages something.
- (2) The inspector must promptly give written notice of particulars of the damage to the person who appears to be the owner of the thing.
- (3) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the inspector's or other person's control, the inspector may state it in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a

conspicuous position and in a reasonably secure way where the damage happened.

- (5) This section does not apply to damage the inspector reasonably believes is trivial.
- (6) In this section—  
*owner* of a thing includes the person in possession or control of it.

## **55 Compensation**

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part, including, for example, in complying with a requirement made of the person.
- (2) Compensation may be claimed and ordered in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an offence brought against the person claiming compensation.
- (3) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

## **Part 7 Exemptions**

### **Division 1 Exemption for demonstration of computer games by approved entities**

#### **56 Approval of entity**

- (1) On receipt of a written application, the computer games classification officer may approve an entity as an approved entity.
- (2) In considering whether to approve the entity, the computer games classification officer must have regard to—
  - (a) the purpose for which the entity was formed; and
  - (b) the extent to which the entity carries on activities of a medical, scientific, educational, cultural or artistic nature; and
  - (c) the reputation of the entity for the demonstration of computer games; and
  - (d) the conditions imposed by the entity about the admission of persons to the demonstration of computer games by the entity.
- (3) The approval—
  - (a) must be published in the gazette; and
  - (b) takes effect on the date of publication; and
  - (c) continues in force until it is revoked.
- (4) The computer games classification officer may revoke the approval if the computer games classification officer decides that, because of a change in the things mentioned in subsection (2), it is no longer appropriate that the entity be an approved entity.

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**57 Application by approved entity for exemption for demonstration of computer game**

An application for an exemption from this Act, or a provision of this Act, for a computer game that an approved entity intends to demonstrate at a stated event must—

- (a) be made by the approved entity; and
- (b) state the computer game and the event at which the approved entity intends to demonstrate the computer game; and
- (c) be accompanied by a synopsis of the story or events depicted in the computer game; and
- (d) be given to the computer games classification officer in writing.

**58 Exemption for demonstration of computer game**

- (1) On receipt of an application under section 57, the computer games classification officer may exempt an approved entity from this Act, or stated provisions of this Act, for a stated computer game to be demonstrated at a stated event.
- (2) The exemption may be given on conditions.
- (3) If the conditions are complied with, subsection (4) has effect for the demonstration by the approved entity of the computer game at the event.
- (4) This Act, or the provisions of this Act stated in the exemption, do not apply and the computer game is not indecent or obscene material for the purposes of the Criminal Code.

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## **Division 2                      Exemption for medical, educational or scientific computer games**

### **59            Exemption of entity and computer game for medical etc. purposes**

- (1) On receipt of a written application, the computer games classification officer may, in writing, exempt an entity from this Act, or specified provisions of this Act, for specified computer games.
- (2) An exemption may only be given for computer games that are—
  - (a) of a medical, educational or scientific character; or
  - (b) intended to be used by the entity for a medical, educational or scientific purpose.
- (3) The exemption may be given on conditions.
- (4) If the conditions are complied with, subsection (5) has effect for the entity and the computer game.
- (5) This Act, or the provisions of this Act stated in the exemption, do not apply and the computer game is not indecent or obscene material for the purposes of the Criminal Code.

## **Division 3                      Review by QCAT of decision about approval of entity and exemption**

### **60            Review by QCAT**

- (1) This section applies if the computer games classification officer makes a decision—
  - (a) refusing to approve an entity under section 56; or
  - (b) revoking the approval of an entity under section 56; or
  - (c) refusing to give an exemption under section 58 or 59.

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- (2) The computer games classification officer must give the entity a QCAT information notice for the decision.
  - (3) The entity may apply, as provided under the QCAT Act, to QCAT for a review of the decision.
  - (4) In this section—  
*QCAT information notice* means a notice complying with the QCAT Act, section 157(2).

## Part 8                      Miscellaneous

### 62      Evidentiary provisions

- (1) This section applies to a proceeding under this Act.
- (2) The appointment or power of the computer games classification officer, the officer's delegate and an inspector must be presumed unless a party, by reasonable notice, requires proof of—
  - (a) the appointment; or
  - (b) the power to do anything under this Act.
- (3) A signature purporting to be the signature of the computer games classification officer is evidence of the signature it purports to be.
- (4) A certificate purporting to be signed by the computer games classification officer and stating any of the following matters is evidence of the matter—
  - (a) a stated computer game has been classified (and stating the classification);
  - (b) a computer game has not been classified;
  - (c) a computer game would, if classified, be classified (and stating the classification) and, if it would be classified RC, stating whether or not it is a child abuse computer game;

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- (d) an advertisement for a computer game has been approved or has been refused approval.

### **63 Indictable offences and summary offences**

- (1) An offence against section 28 or against another provision of this Act involving a child abuse computer game is punishable on indictment.
- (2) Any other offence against this Act is punishable summarily.
- (3) An indictable offence against this Act may be heard and decided summarily at the defendant's election.
- (4) A complaint under the *Justices Act 1886* for a summary offence against this Act may be made only by—
  - (a) the computer games classification officer; or
  - (b) someone else with the Minister's written authority.

### **64 Forfeiture**

- (1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—
  - (a) anything (including a computer or computer game) used to commit the offence; or
  - (b) anything else, the subject of the offence.
- (2) The court may make the order—
  - (a) whether or not the thing has been seized; and
  - (b) if the thing has been seized—whether or not the thing has been returned to its owner.
- (3) The court may make an order to enforce the forfeiture that it considers appropriate.
- (4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

**65 Dealing with forfeited things**

On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with as directed by the chief executive.

**66 Classified computer games not indecent or obscene**

- (1) A classified computer game and an approved advertisement for the game are not indecent or obscene material for the purposes of the Criminal Code.
- (2) This section does not apply to a computer game classified RC.

**67 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may prescribe penalties of fines of not more than 20 penalty units for offences against a regulation.

**68 Delegation by computer games classification officer**

- (1) The computer games classification officer may, with the chief executive's written approval, delegate the officer's powers under this Act to—
  - (a) another officer of the department; or
  - (b) someone else prescribed under a regulation.
- (2) The computer games classification officer may delegate the officer's powers only if the officer is satisfied the delegate has the necessary expertise or experience to exercise the powers.

**69 Chief executive may approve forms**

The chief executive may approve a form for use under this Act.

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## Part 9 Transitional provisions

### Division 1 Tourism, Fair Trading and Wine Industry Development Legislation Amendment Act 2005

#### 70 Conversion of particular classifications of computer games to equivalent new classifications

- (1) This section applies if, immediately before the commencement of this section, a computer game had a classification (the *original classification*) under this Act mentioned in column 1 of the following table—

**Table**

<b>Column 1</b>	<b>Column 2</b>
G(8+)	PG
M(15+)	M
MA(15+)	MA 15+
R	R 18+
X	X 18+

- (2) From the commencement, the computer game is taken to have the classification under this Act set out opposite the original classification in column 2 of the table (the *new classification*).
- (3) From the commencement, a reference in an Act or a document to an original classification may, if the context permits, be taken to be a reference to the new classification.
- (4) A change from an original classification to the new classification does not affect a proceeding for an offence alleged to have been committed before the commencement, whether the proceeding is started before or after the commencement, in relation to a computer game described by reference to the original classification.

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## Division 2                      Justice Legislation Amendment Act 2008

### 71        Definitions for div 2

In this division—

*amending Act* means the *Justice Legislation Amendment Act 2008*, part 2.

*commencement* means the commencement of this section.

### 72        Existing appeals

- (1) This section applies to an appeal started under previous section 8 or previous section 60(2) but not ended before the commencement of this section.
- (2) The appeal may continue and be decided as if the amending Act had not been enacted.
- (3) In this section—

*previous*, followed by a provision number, means the provision as in force immediately before the commencement.

### 73        Existing entitlements to appeal

- (1) This section applies if, immediately before the commencement—
  - (a) a person was entitled to appeal against a decision mentioned in section 8 or 60(2) (the *relevant provision*) and had not started the appeal; and
  - (b) the period mentioned in the relevant provision for starting the appeal had not ended.
- (2) This Act as amended by the amending Act applies to the appeal.

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**74 Existing proceedings for offences relating to advertisements for computer games**

- (1) This section applies if a proceeding for an offence against a provision of part 4 was started, but had not ended, before the commencement of the amending Act, section 14(3).
- (2) Despite the Criminal Code, section 11, the proceeding may continue, and the provision may be enforced, as if the amending Act, section 14(3) had not been enacted.

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## Schedule 2 Dictionary

### section 3

***advertisement***, for a computer game, means any form of advertising for the computer game and includes—

- (a) advertising, whether visual or audible, whether in the form of written or spoken words or other sounds and whether in a book, paper, magazine, poster, photograph, sketch, program, computer game or slide or in any other form; and
- (b) advertising on a container or wrapping enclosing the computer game; and
- (c) advertising on the internet;

but does not include—

- (d) advertising for an exempt computer game; or
- (e) advertising, in an imported publication, for a computer game that has not been published in Australia; or
- (f) advertising, in an imported film or computer game that is in a form that can not be modified, for a computer game that has not been published in Australia (***advertised game***), whether or not the advertised game is later published in Australia; or
- (g) advertising by way of a product that—
  - (i) refers to, or is derived from, the computer game; and
  - (ii) is primarily intended to be sold or distributed to the general public or to a section of the general public; and
  - (iii) a reasonable person would not consider to be a primary source of classification information for consumers about the computer game.

***approved form*** means a form approved by the chief executive.

***at*** a place includes in or on the place.

***board*** means the Classification Board established under the Commonwealth Act.

***bulletin board*** means a system of electronically stored information accessible by computer through the telecommunications network.

***child abuse computer game*** means a computer game that is an objectionable computer game because it depicts a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way likely to cause offence to a reasonable adult.

***classified*** means classified under this Act or the Commonwealth Act.

***Commonwealth Act*** means the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth).

***Commonwealth gazette*** means the Commonwealth of Australia gazette.

***computer game*** means—

- (a) a computer program and associated data, capable of generating a display on a computer monitor, television screen, liquid crystal display or similar medium; or
- (b) a computer-generated image; or
- (c) an interactive film;

but does not include—

- (d) a bulletin board; or
- (e) an exempt computer game; or
- (f) a film that is not an interactive film.

***computer games classification officer*** means the person holding the office of computer games classification officer appointed under the *Public Service Act 2008*.

***computer-generated image*** means electronically recorded data capable, by way of an electronic device, of being

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produced on a computer monitor, television screen, liquid crystal display or similar medium as an image (including an image in the form of text).

**computer program** means a set of statements or instructions to be used directly or indirectly in a computer to bring about a certain result.

**consumer advice** means—

- (a) for a computer game (other than a computer game that is a film under the Commonwealth Act)—the consumer advice about the computer game decided by the board under the Commonwealth Act; or
- (b) for a computer game that is a film under the Commonwealth Act—the consumer advice about the film decided by the board under the Commonwealth Act.

**convenor** means the convenor of the review board.

**conviction** includes a finding of guilt, and the acceptance of a plea of guilty, by a court.

**deal with** includes sell, dispose of and destroy.

**demonstrate** includes exhibit, display, screen, play and make available for playing.

**determined markings** means—

- (a) for a computer game (other than a computer game that is a film under the Commonwealth Act)—the markings for the computer game determined under the Commonwealth Act; or
- (b) for a computer game that is a film under the Commonwealth Act—the markings for the film determined under the Commonwealth Act.

*Note*—

See the Commonwealth Act, section 8.

**director** means the director of the board.

***exempt computer game*** see section 5 of the Commonwealth Act.

***interactive film*** means a film in which the way the film proceeds and the result achieved at various stages of the film is decided in response to the decisions, inputs and direct involvement of the user of the film.

***objectionable computer game*** means a computer game, or an advertisement for a computer game, that—

- (a) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence, or revolting or abhorrent phenomena, in a way that offends against standards of morality, decency and propriety generally accepted by reasonable adults; or
- (b) depicts a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way likely to cause offence to a reasonable adult; or
- (c) promotes, incites or instructs in matters of crime or violence; or
- (d) is unsuitable for a minor to view or play; or
- (e) for a computer game—is classified RC; or
- (f) for an advertisement—is refused approval.

***obstruct*** includes hinder, resist and attempt to obstruct.

***occupier***, of a place, includes a person who reasonably appears to be the occupier, or in charge, of the place.

***on*** a place or vehicle includes in the place or vehicle.

***owner***, of a seized thing, includes the person from whom the thing was seized unless the inspector concerned is aware of the actual owner.

***person in control***, of a vehicle, includes—

- (a) the driver of the vehicle; or
- (b) the person who reasonably appears to be the driver; or

- (c) the person who appears to be, claims to be or acts as if he or she is in control of a vehicle.

**place** includes premises and a place on land or waters, but does not include a vehicle.

**possession**, of a computer game, includes—

- (a) custody or control of the computer game; and
- (b) an ability or right to obtain custody or control of the computer game.

**premises** includes—

- (a) a building or structure, or part of a building or structure; and
- (b) the land where a building or structure is situated.

**public place** means a place that—

- (a) the public may use; or
- (b) is open to, or used by, the public (whether or not on payment of money).

**publish** includes sell and demonstrate.

**reasonably believes** means believes on grounds that are reasonable in all the circumstances.

**reasonably suspects** means suspects on grounds that are reasonable in all the circumstances.

**review board** see section 5 of the Commonwealth Act.

**sell**, for a computer game, means—

- (a) sell, whether by wholesale or retail; or
- (b) display for sale; or
- (c) let on hire; or
- (d) exchange; or
- (e) distribute; or
- (f) offer or agree to do an act mentioned in paragraphs (a) to (e); or

Schedule 2

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- (g) invite to treat or expose for an act mentioned in paragraphs (a) to (e); or
- (h) cause or permit to be done an act mentioned in paragraphs (a) to (g).

***vehicle*** includes an aircraft and a ship.

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## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 December 2009. Future amendments of the Classification of Computer Games and Images Act 1995 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 July 1995	5 July 1995
1A	1995 Act No. 57	28 November 1995	8 July 1996
1B	1996 Act No. 56	20 November 1996	10 January 1997
2	1997 Act No. 82	1 July 1998	7 August 1998
2A	2000 Act No. 5	1 July 2000	25 August 2000

  

Reprint No.	Amendments included	Effective	Notes
2B	2002 Act No. 13	25 April 2003	
2C	2003 Act No. 94	3 December 2003	
2D	2005 Act No. 4	21 March 2005	
2E	2005 Act No. 24	26 May 2005	R2E withdrawn, see R3
3	—	26 May 2005	
3A	2007 Act No. 16	15 June 2007	

Reprint No.	Amendments included	Effective	Notes
3B	2008 Act No. 51	23 October 2008	
3C	2008 Act No. 51	1 July 2009	
3D	2009 Act No. 25	2 November 2009	
3E	2009 Act No. 48	19 November 2009	
3F	2009 Act No. 24	1 December 2009	R3F withdrawn, see R4
4	—	1 December 2009	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	1

## 6 List of legislation

### **Classification of Computer Games and Images Act 1995 No. 17 (prev Classification of Computer Games and Images (Interim) Act 1995)**

date of assent 11 April 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 146)

amending legislation—

### **Statute Law (Minor Amendments) Act (No. 2) 1995 No. 51 ss 1, 4 sch**

date of assent 22 November 1995

commenced on date of assent

### **Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

### **Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

### **Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act 1996 No. 56 pts 1, 5**

date of assent 20 November 1996

commenced on date of assent

### **Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1, 2(2), pt 4**

date of assent 5 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1998 (1998 SL No. 76)

Endnotes

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**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3**

date of assent 23 March 2000

ss 1–2 commenced on date of assent (see s 2(2))

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002 No. 13 ss 1, 2(3), pt 6**

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 25 April 2003 (automatic commencement under AIA s 15DA(2))

**Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2003 No. 94 s 1, pt 4**

date of assent 3 December 2003

commenced on date of assent

**Summary Offences Act 2005 No. 4 ss 1–2, 30 sch 1**

date of assent 3 March 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 21 March 2005 (2005 SL No. 34)

**Tourism, Fair Trading and Wine Industry Development Legislation Amendment Act 2005 No. 24 pts 1–2**

date of assent 31 May 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 26 May 2005 (see s 2)

**Associations Incorporation and Other Legislation Amendment Act 2007 No. 16 pts 1, 3**

date of assent 20 March 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 15 June 2007 (2007 SL No. 119)

**Justice Legislation Amendment Act 2008 No. 51 pts 1–2**

date of assent 23 October 2008

ss 1–2 commenced on date of assent

ss 7–8, 14(3)–(4) commenced 1 July 2009 (2009 SL No. 130)

remaining provisions commenced on date of assent

**Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 9 pt 5**

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

**Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

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**State Penalties Enforcement and Other Legislation Amendment Act 2009 No. 48 s 1,  
ch 5 pt 1**

date of assent 19 November 2009

commenced on date of assent

**7 List of annotations****Short title**

s 1 amd 1996 No. 57 s 42

**Classification under the Commonwealth Act****prov hdg** amd 1996 No. 57 s 43(1)

s 4 amd 1996 No. 57 s 43(2)–(4); 2005 No. 24 s 4

**Classification of computer games by computer games classification officer**

s 5 amd 1996 No. 56 s 44; 2007 No. 16 s 39

**Reclassification of computer games**

s 6 amd 1995 No. 57 s 4 sch 1; 1996 No. 56 s 45

**Production of computer game for classification or reclassification**

s 7 amd 1996 No. 56 s 46; 2003 No. 94 s 13

**Reclassification notice**

s 7A ins 1996 No. 56 s 47

**Review by QCAT of classification decision****prov hdg** amd 1995 No. 57 s 4 sch 1; 1996 No. 56 s 48(1); 2009 No. 24 s 1376(1)

s 8 amd 1995 No. 57 s 4 sch 1; 1996 No. 56 s 48(2)

sub 2008 No. 51 s 4

amd 2009 No. 24 s 1376(2)–(3)

**Calling in computer game for reclassification by board**

s 8A ins 2002 No. 13 s 22

amd 2003 No. 94 s 14

**Obtaining copies for review**

s 8B ins 2002 No. 13 s 22

amd 2003 No. 94 s 15; 2008 No. 51 s 5

**Calling in unclassified computer game for classification**

s 8C ins 2002 No. 13 s 22

amd 2003 No. 94 s 16

**Prohibition against demonstration of unclassified computer game**

s 9 amd 1996 No. 56 s 49; 2005 No. 24 s 5

**Restriction on demonstration of MA 15+ computer game**

s 10 amd 1996 No. 56 s 50; 2005 No. 24 s 6

**Prohibition against demonstration of certain classified computer games**

s 10A ins 1996 No. 56 s 51

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**Computer game available for playing on pay and play basis to bear determined markings and consumer advice**

s 10B ins 2002 No. 13 s 23

**Publishing advertisements**

prov hdg amd 1996 No. 56 s 52(1)

s 11 amd 1996 No. 56 s (2)–(4)

**Advertisement to contain determined markings and consumer advice**

s 12 sub 1996 No. 56 s 53

amd 2008 No. 51 s 6; 2009 No. 48 s 199

**False advertising of computer games**

s 13 amd 1996 No. 56 s 54

**Prohibition against advertising certain computer games**

s 13A ins 1996 No. 56 s 55

amd 2005 No. 24 s 7; 2008 No. 51 s 7

**Power to require certain advertisements to be submitted for approval**

prov hdg amd 2003 No. 94 s 17(1)

s 13B ins 1996 No. 56 s 55

amd 2003 No. 94 s 17(2)

**Defence to prosecution under section 13B**

s 13C ins 1996 No. 56 s 55

amd 2003 No. 94 s 18

**Markings and consumer advice on containers**

prov hdg amd 1996 No. 56 s 56(1)

s 14 amd 1996 No. 56 s 56(2)

**Display of classifications notices**

s 15 sub 1996 No. 56 s 57

**Classified computer games containing advertisements for other computer games**

s 16 amd 2005 No. 24 s 8; 2008 No. 51 s 8

**Display for sale of MA 15+ computer game**

s 17 amd 2005 No. 24 s 9

**Sale of MA 15+ computer game to certain children prohibited**

s 18 amd 2005 No. 24 s 10

**Sale of unclassified computer games prohibited**

s 19 amd 1996 No. 56 s 58; 1997 No. 82 s 11; 2005 No. 24 s 11

**Prohibition against selling certain classified computer games**

s 21A ins 1996 No. 56 s 59

**Appointment of inspectors**

s 30 amd 2009 No. 48 s 200

**Identity cards**

s 32 amd 1997 No. 82 s 12

**Production or display of inspector's identity card**

s 33 amd 2000 No. 5 s 461 sch 3

**Return of seized things**

s 45 amd 1996 No. 56 s 60

**Power to require name and address**

s 47 amd 2000 No. 5 s 461 sch 3

**Steps police officer may take for failure to give name and address**

s 48 om 2000 No. 5 s 461 sch 3

**Obstructing inspector**

s 51 amd 2000 No. 5 s 461 sch 3; 2009 No. 48 s 201

**Steps a police officer may take for obstruction**

s 52 om 2000 No. 5 s 461 sch 3

**PART 7—EXEMPTIONS****Exemption for demonstration of computer game**

s 58 amd 2005 No. 4 s 30 sch 1

**Exemption of entity and computer game for medical etc. purposes**

s 59 amd 1995 No. 57 s 4 sch 1; 2005 No. 4 s 30 sch 1

**Division 3—Review by QCAT of decision about approval of entity and exemption**

div hdg sub 2008 No. 51 s 9  
amd 2009 No. 24 s 1377

**Review by QCAT**

s 60 sub 2008 No. 51 s 9; 2009 No. 24 s 1378

**Appeal procedure**

s 61 amd 1995 No. 57 s 4 sch 1  
om 2008 No. 51 s 10

**Evidentiary provisions**

s 62 amd 1996 No. 56 s 61

**Indictable offences and summary offences**

s 63 amd 1996 No. 56 s 62

**Classified computer games not indecent or obscene**

s 66 amd 1996 No. 56 s 63; 2005 No. 4 s 30 sch 1

**Regulation-making power**

prov hdg sub 2008 No. 51 s 11(1)  
s 67 amd 2008 No. 51 s 11(2)

**PART 9—TRANSITIONAL PROVISIONS**

pt hdg prev pt 9 hdg om R1 (see RA s 40)  
pres pt 9 hdg ins 2005 No. 24 s 12  
sub 2008 No. 51 s 12

**Division 1—Tourism, Fair Trading and Wine Industry Development Legislation Amendment Act 2005**

**div hdg** ins 2008 No. 51 s 12

**Conversion of particular classifications of computer games to equivalent new classifications**

**s 70** prev s 70 sub 1996 No. 56 s 64  
exp 20 February 1997 (see s 70(2))  
pres s 70 ins 2005 No. 24 s 12

**Division 2—Justice Legislation Amendment Act 2008**

**div hdg** ins 2008 No. 51 s 13

**Definitions for div 2**

**s 71** orig s 71 om R1 (see RA s 40)  
prev s 71 ins 1995 No. 51 s 4 sch  
exp 22 November 1996 (see s 71(5))  
om 1996 No. 56 s 64  
ins 1997 No. 82 s 14  
exp 1 August 1998 (see s 71(2))  
pres s 71 ins 2008 No. 51 s 13

**Existing appeals**

**s 72** ins 2008 No. 51 s 13

**Existing entitlements to appeal**

**s 73** ins 2008 No. 51 s 13

**Existing proceedings for offences relating to advertisements for computer games**

**s 74** ins 2008 No. 51 s 13

**SCHEDULE 1—ACT AMENDED**

om R1 (see RA s 40)

**SCHEDULE 2—DICTIONARY**

def “**advertisement**” amd 1996 No. 56 s 65(3)  
sub 2002 No. 13 s 24(1)–(2)  
amd 2008 No. 51 s 14(3)–(4)  
def “**appeal body**” om 2008 No. 51 s 14(1)  
def “**approved form**” amd 2009 No. 48 s 202(1)  
def “**board**” ins 1996 No. 56 s 65(2)  
def “**CCT**” ins 2008 No. 51 s 14(2)  
om 2009 No. 24 s 1379  
def “**CCT Act**” ins 2008 No. 51 s 14(2)  
om 2009 No. 24 s 1379  
def “**child abuse computer game**” amd 1997 No. 82 s 13  
def “**classified**” amd 1996 No. 56 s 65(4)  
def “**Commonwealth Act**” ins 1996 No. 56 s 65(2)  
def “**Commonwealth gazette**” ins 1996 No. 56 s 65(2)  
def “**computer game**” amd 1995 No. 57 s 4 sch 1  
sub 1996 No. 56 s 65(1)–(2)  
amd 2002 No. 13 s 24(3)

- def **“computer games classification officer”** amd 1996 No. 37 s 147 sch 2;  
2009 No. 25 s 83 sch
- def **“consumer advice”** ins 1996 No. 56 s 65(2)
- def **“convenor”** ins 2008 No. 51 s 14(2)
- def **“determined markings”** sub 1996 No. 56 s 65(1)–(2)  
amd 2009 No. 48 s 202(2)
- def **“director”** ins 1996 No. 56 s 65(2)
- def **“exempt computer game”** ins 2002 No. 13 s 24(2)  
amd 2009 No. 48 s 202(3)
- def **“interactive film”** ins 1996 No. 56 s 65(2)
- def **“objectionable computer game”** amd 1996 No. 56 s 65(5)–(6); 1997 No.  
82 s 13
- def **“ordinance”** om 1996 No. 56 s 65(1)
- def **“review board”** ins 2002 No. 13 s 24(2)

## 8 Table of corrected minor errors

under the Reprints Act 1992 s 44

Provision	Description
16(b)	om ‘as a M’ ins ‘as an M’

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