

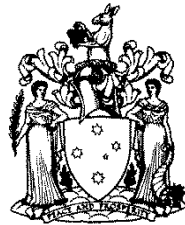
# Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2012

No. 72 of 2012

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Victoria

# **Classification (Publications, Films and Computer Games) (Enforcement) Amendment Act 2012<sup>†</sup>**

**No. 72 of 2012**

[Assented to 4 December 2012]

**The Parliament of Victoria enacts:**

## **PART 1—PRELIMINARY**

### **1 Purpose**

The purpose of this Act is to amend the  
**Classification (Publications, Films and  
Computer Games) (Enforcement) Act 1995—**

- (a) to provide for offences relating to computer games with an R 18+ classification; and

- (b) to establish penalties for offences relating to computer games with an R 18+ classification; and
- (c) to provide an exemption for law enforcement personnel and other authorised persons from certain offences under that Act.

## 2 Commencement

- (1) This Act (except Part 2) comes into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Part 2 comes into operation on 1 January 2013.

## 3 Principal Act

In this Act, the **Classification (Publications, Films and Computer Games) (Enforcement) Act 1995** is called the Principal Act.

See:  
Act No.  
90/1995  
Reprint No. 2  
as at  
26 September  
2007  
and  
amending  
Act Nos  
5/2008,  
33/2009,  
68/2009 and  
29/2011.  
LawToday:  
www.  
legislation.  
vic.gov.au

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**PART 2—AMENDMENTS RELATING TO R 18+ COMPUTER GAMES**

**4 New section 36A inserted**

After section 36 of the Principal Act **insert—**

**"36A R 18+ computer games**

A person must not demonstrate a computer game classified R 18+ in a public place unless—

- (a) the determined markings are exhibited before the computer game can be played; and
- (b) entry to the place is restricted to adults.

Penalty: 10 penalty units."

**5 Demonstration of unclassified, RC, R 18+ and MA 15+ computer games**

- (1) In the heading to section 38 of the Principal Act, after "**RC**" **insert " , R 18+".**
- (2) In section 38(a) and (b) of the Principal Act, after "**RC**" **insert " , R 18+".**
- (3) In the penalty at the foot of section 38 of the Principal Act, after paragraph (c) **insert—**  
"(ca) if the computer game is classified, or is subsequently classified, R 18+—40 penalty units;"

**6 Private demonstration of certain computer games in presence of a minor**

- (1) **Insert** the following heading to section 39 of the Principal Act—  
**"Private demonstration of RC and R 18+ computer games in presence of a minor".**
- (2) In section 39(1) of the Principal Act, after "**RC**" (where twice occurring) **insert " or R 18+".**

(3) For the penalty at the foot of section 39(1) of the Principal Act **substitute**—

"Penalty:

- (a) if the computer game is classified, or is subsequently classified, R 18+—40 penalty units;
- (b) if the computer game is classified, or is subsequently classified, RC—240 penalty units or imprisonment for 2 years."

#### **7 Keeping unclassified or RC computer games with other computer games**

After section 41(1)(a) of the Principal Act **insert**—

"(ab) if the computer game is subsequently classified R 18+—a fine not exceeding 120 penalty units or imprisonment not exceeding 1 year;"

#### **8 Sale or delivery of certain computer games to minors**

(1) After section 42(1) of the Principal Act **insert**—

"(1A) A person must not sell or deliver to a minor a computer game classified R 18+, or an unclassified computer game which would, if classified, be classified R 18+, unless the person is a parent or guardian of the minor.

Penalty: 60 penalty units or imprisonment for 6 months."

(2) After section 42(2) of the Principal Act **insert**—

"(2A) It is a defence to a prosecution for an offence against subsection (1A) to prove that—

- (a) the minor produced to the accused or the employee or agent of the accused acceptable proof of age before the

accused sold or delivered the computer game to the minor and the accused or employee or agent of the accused believed on reasonable grounds that the minor was an adult; or

- (b) in the case of delivery of a computer game classified R 18+, the minor was employed by the accused or the employer of the accused and the delivery took place in the course of that employment."

### **9 Leaving computer games in certain places**

- (1) In section 44(1)(a) and (b) of the Principal Act, after "RC" **insert** ", R 18+".
- (2) In the penalty at the foot of section 44(1) of the Principal Act, after paragraph (c) **insert**—
- "(ca) if the computer game is classified, or is subsequently classified, R 18+—120 penalty units or imprisonment for 1 year;"

### **10 Possession or copying of computer game for the purpose of sale or demonstration**

- (1) In the penalty at the foot of section 45(1) of the Principal Act, after paragraph (c) **insert**—
- "(ca) if the computer game is subsequently classified R 18+—120 penalty units or imprisonment for 1 year;"
- (2) In the penalty at the foot of section 45(2) of the Principal Act, after paragraph (c) **insert**—
- "(ca) if the computer game is subsequently classified R 18+—120 penalty units or imprisonment for 1 year;"

**11 Screening of advertisements with feature films**

In the Table to section 48 of the Principal Act, in column 3 of item 5, before "MA 15+" **insert** "R 18+,".

**12 Liability for certain advertisements**

- (1) In section 49(1)(b) and (d) of the Principal Act, after "RC" **insert** ", R 18+."
- (2) In section 49(2) of the Principal Act—
  - (a) in paragraph (b), after "film" (where first occurring) **insert** "or computer game";
  - (b) in paragraph (c)(ii), after "to be classified," **insert** "R 18+ or".

**13 Sale of feature films with advertisements**

In the Table to section 50 of the Principal Act, in column 3 of item 5, before "MA 15+" **insert** "R 18+,".

**14 Advertisements with computer games**

In the Table to section 51 of the Principal Act, after item 4 **insert**—

"5	R 18+	R 18+, MA 15+, M, PG or G	R 18+, MA 15+, M, PG or G".
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**15 On-line information services**

In section 56 of the Principal Act—

- (a) in the definition of *material unsuitable for minors of any age*, after paragraph (b) **insert**—
    - "(ba) a computer game that is classified R 18+ or would, if classified, be classified R 18+; or";
  - (b) in the definition of *objectionable material*, paragraph (c)(iv) is **repealed**.
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**s. 16**

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**16 Publication to prescribed person or body**

In section 83(b) of the Principal Act after "RC"  
**insert** ", R 18+".

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**PART 3—AMENDMENTS RELATING TO LAW  
ENFORCEMENT EXEMPTION**

**17 Definitions**

In section 56 of the Principal Act **insert** the following definition—

**"law enforcement agency** means—

- (a) the police of Victoria or of any other State or of the Northern Territory of Australia; or
- (b) the Australian Federal Police; or
- (c) the Australian Crime Commission established by the Australian Crime Commission Act 2002 of the Commonwealth; or
- (d) any other authority or person responsible for the enforcement of the laws of—
  - (i) Victoria or any other State; or
  - (ii) the Commonwealth; or
  - (iii) the Northern Territory of Australia;"

**18 Publication or transmission of objectionable material**

After section 57(3) of the Principal Act **insert**—

- "(4) Nothing in subsection (1) makes it an offence for—
- (a) any member or officer of a law enforcement agency; or

- (b) a person authorised in writing by the Chief Commissioner of Police who is assisting a member or officer; or
- (c) a person belonging to a class of persons authorised in writing by the Chief Commissioner of Police who is assisting a member or officer—

to do anything referred to in subsection (1) in the exercise or performance of a power, function or duty conferred or imposed on the member or officer by or under this or any other Act or at common law."

#### **19 Publication or transmission of child pornography**

At the end of section 57A of the Principal Act  
**insert—**

- "(2) Nothing in subsection (1) makes it an offence for—
- (a) any member or officer of a law enforcement agency; or
  - (b) a person authorised in writing by the Chief Commissioner of Police who is assisting a member or officer; or
  - (c) a person belonging to a class of persons authorised in writing by the Chief Commissioner of Police who is assisting a member or officer—

to do anything referred to in subsection (1) in the exercise or performance of a power, function or duty conferred or imposed on the member or officer by or under this or any other Act or at common law."

## **20 Advertising of objectionable material etc.**

At the end of section 59 of the Principal Act  
**insert—**

- "(2) Nothing in subsection (1) makes it an offence for—
- (a) any member or officer of a law enforcement agency; or
  - (b) a person authorised in writing by the Chief Commissioner of Police who is assisting a member or officer; or
  - (c) a person belonging to a class of persons authorised in writing by the Chief Commissioner of Police who is assisting a member or officer—

to do anything referred to in subsection (1) in the exercise or performance of a power, function or duty conferred or imposed on the member or officer by or under this or any other Act or at common law."

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**PART 4—REPEAL OF AMENDING ACT**

**21 Repeal of amending Act**

This Act is **repealed** on 1 January 2014.

**Note**

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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Classification (Publications, Films and Computer Games) (Enforcement)  
Amendment Act 2012  
No. 72 of 2012

Endnotes

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**ENDNOTES**

<sup>†</sup> *Minister's second reading speech—*

*Legislative Assembly: 11 October 2012*

*Legislative Council: 15 November 2012*

The long title for the Bill for this Act was "A Bill for an Act to amend the **Classification (Publications, Films and Computer Games) (Enforcement) Act 1995** to provide for the regulation of computer games with an R 18+ classification, to provide for an exemption from certain offences under that Act and for other purposes."