

CHAPTER 3

National Classification Scheme

3.1 The historical background outlined in Chapter 2 has led to Australia's current system of classification. The major mechanism is the National Classification Scheme, which covers films (including videos and DVDs), computer games and certain publications.¹

3.2 Media not covered by the National Classification Scheme includes audio-only recorded music, broadcast television content, outdoor advertising, and online content in some circumstances. These media are subject to a variety of codes of practice and other measures, and are discussed in Chapters 8, 9 and 10.

3.3 Censorship and classification in Australia are complicated by Australia's federal system, with significant differences to enforcement taken by each jurisdiction. While the National Classification Scheme improved upon pre-1996 existing classification mechanisms, the classification process continues to be complex and lacking in uniformity.

National Classification Scheme

3.4 The National Classification Scheme commenced in 1996 after the Commonwealth, and the states and territories entered into the *Intergovernmental Agreement on Censorship* (Intergovernmental Agreement). The aim of the scheme, as described in the Intergovernmental Agreement, is 'to make, on a cooperative basis, Australia's censorship laws more uniform and simple with consequential benefits to the public and the industry'.²

3.5 The Intergovernmental Agreement made clear that the National Classification Scheme was to reflect and maintain the balance of responsibilities that had been agreed between the Australian jurisdictions. Specifically, the Commonwealth and the participating states are equal partners in the scheme, with policy derived from agreement between all relevant jurisdictions.³

3.6 As part of the Intergovernmental Agreement, the Australian Parliament enacted the *Classification (Publications, Films and Computer Games) Act 1995* (Cth) (*Classification Act 1995*). Using the Commonwealth's territories power under section 122 of the Constitution, the *Classification Act 1995* sets up a classification

1 Australian Government, *National Classification Scheme*, http://www.classification.gov.au/www/cob/classification.nsf/Page/ClassificationinAustralia_NationalClassificationScheme, (accessed 4 May 2011).

2 *Intergovernmental Agreement on Censorship*, item B.

3 *Intergovernmental Agreement on Censorship*, item C.

system for the ACT,⁴ and is also intended to form part of the state and territory schemes.⁵

3.7 The *Classification Act 1995* creates classification categories for publications, films and computer games. Classification decisions are made by the Classification Board, and can be reviewed by the Classification Review Board. Both of these independent statutory bodies are established under the *Classification Act 1995*.

3.8 The operation of the *Classification Act 1995*, including classification decision-making, is supplemented by the Classification (Publications, Films and Computer Games) Regulations 2005 (Cth), the National Classification Code and two sets of guidelines: the *Guidelines for the Classification of Publications 2005* and the *Guidelines for the Classification of Films and Computer Games*. Together, the elements of this framework provide guidance regarding the type of content suitable for each level of classification.

3.9 The states and territories are responsible for the enforcement of classification decisions. Each state and territory has enacted enforcement legislation which sets out how films, publications and computer games can be sold, hired, exhibited, advertised and demonstrated within its own jurisdiction. There remain some differences, however, between states and territories in this respect.

Classification Board

3.10 As noted above, the classification given to a publication, film or computer game is a decision of the Classification Board.⁶

3.11 The Classification Board is an independent statutory authority established under the *Classification Act 1995*. It consists of no more than 30 members.⁷ These members are to be 'broadly representative of the Australian community', but there is no other legislative requirement for any particular expertise.⁸ Under the *Classification Act 1995*, the Classification Board's members are to be appointed by the Minister after consultation with the relevant state and territory ministers. Members are not to hold

4 Section 23 of the *Australian Capital Territory (Self-Government) Act 1988* reserved to the Commonwealth the right to make laws for 'the classification of materials for the purposes of censorship' in the ACT, to ensure that a national censorship scheme is preserved.

5 *Classification Act 1995*, s. 3.

6 Attorney-General's Department, *Submission 46*, p. 1.

7 This number was increased from 20 in 2007 (Classification (Publications, Films and Computer Games) Amendment Regulations 2007 (No. 2), SLI 2007/244).

8 *Classification Act 1995*, ss. 48(2).

office for longer than seven years.⁹ Classification decisions can be made by a panel of members sitting as the Classification Board, as decided by its Director.¹⁰

3.12 Every film and computer game has to be classified before it can be legally made available to the public. Some publications also need to be classified.¹¹ The Classification Board may also classify advertisements for publications, films or computer games, either on application or on its own initiative.¹² In making classification decisions, the Classification Board applies principles outlined in the *Classification Act 1995*, the National Classification Code and relevant guidelines. Classification decisions must be made within 20 business days of an application being received.¹³

3.13 In addition, the Classification Board must determine consumer advice for all films and computer games it classifies, other than those suitable for a general audience (G-rated).¹⁴ Consumer advice is intended to help consumers to make an informed choice about the material they, or those in their care, choose to read, view or play.¹⁵ All classified items must carry appropriate classification markings.¹⁶

9 *Classification Act 1995*, ss. 48(3) and 51(3).

10 *Classification Act 1995*, s. 57.

11 Australian Government, *Classification Board*, http://www.classification.gov.au/www/cob/classification.nsf/Page/ClassificationinAustralia_WhoweareClassificationBoard_ClassificationBoard, (accessed 26 May 2011).

12 *Classification Act*, s. 29; this approval process is rarely used (Attorney-General's Department, *Review of Advertising of Unclassified Material under the National Classification Scheme* Discussion Paper, August 2006, p. 6). For many years, different schemes have been in place to obviate the need for the approval of advertisements, including quotas for the number of films able to be advertised before classification. No applications under section 29 were received during 2008-09 and 2009-10.

13 *Classification Act 1995*, s. 87A.

14 *Classification Act 1995*, s. 20; the G-rating (general) is discussed in more detail later in the chapter. Consumer advice is not provided for films or games that are Refused Classification. The Classification Board, while not required to, has the option of providing consumer advice for G-rated films and games, and for unrestricted publications if it so chooses.

15 Australian Government, *Consumer advice*, http://www.classification.gov.au/www/cob/classification.nsf/Page/Classification_in_Australia_What_we_do#Consumer, (accessed 9 May 2011); consumer advice is designed to let consumers know which classifiable elements (described below) have led to the classification.

16 See, for example, *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (NSW), s. 15, s. 20-22 and s. 34.

Classification Review Board

3.14 The Classification Review Board reviews decisions made by the Classification Board. It consists of between three and eight members appointed under the same conditions as members of the Classification Board.¹⁷

3.15 Application for review of a decision of the Classification Board can be made to the Classification Review Board by the Minister, the original applicant, the publisher, or an 'aggrieved person', including an activist or researcher, or an interested organisation.¹⁸

3.16 Decisions of the Classification Review Board must be made by at least three of its members, as decided by its convenor. Classification decisions must be made within 20 business days of receiving an application.¹⁹ As an independent statutory body separate from the Classification Board, the Classification Review Board makes fresh classification decisions and provides new consumer advice.²⁰

Classification categories

3.17 The *Classification Act 1995* sets out the classification categories used by the National Classification Scheme. The content permitted in each category is prescribed by the National Classification Code and the relevant guidelines. A description of the type of content in each of these classifications is included in Table 3.1 below.

Publications

3.18 Under the *Classification Act 1995*, publications may be classified as:

- Unrestricted;
- Category 1 restricted;
- Category 2 restricted; or
- RC (Refused Classification).²¹

3.19 It is not compulsory to submit all publications to the Classification Board. Publications are subject to a partially compulsory scheme, in which only 'submittable'

17 See Part 7 of the *Classification Act 1995*.

18 *Classification Act 1995*, s. 42.

19 *Classification Act 1995*, s. 78 and s. 87B.

20 Australian Government, *Classification Review Board*, http://www.classification.gov.au/www/cob/classification.nsf/Page/ClassificationinAustralia_Whoweare_ReviewBoard_ReviewBoard, (accessed 6 May 2011).

21 *Classification Act 1995*, ss. 7(1).

publications must be submitted. Under the *Classification Act 1995*, a 'submittable' publication is:

...an unclassified publication that, having regard to section 9A or to the Code and the classification guidelines to the extent that they relate to publications, contains depictions or descriptions that:

- (a) are likely to cause the publication to be classified RC; or
- (b) are likely to cause offence to a reasonable adult to the extent that the publication should not be sold or displayed as an unrestricted publication; or
- (c) are unsuitable for a minor to see or read.²²

3.20 Failure to submit such a publication for classification is an offence under state and territory legislation.²³

3.21 A special process exists for the classification of serial publications. The Classification Board normally makes serial classification declarations to cover issues of a serial publication for 12 months.²⁴ Compliance checks are undertaken after a three-month period to determine whether any subsequent issues fit within the declared classification.²⁵ The Classification Board has a policy of auditing at least 10 per cent of publications with serial classification declarations each year.²⁶

Films

3.22 Films may be classified as:

- G (General);
- PG (Parental Guidance);
- M (Mature);
- MA15+ (Mature Accompanied);
- R18+ (Restricted);
- X18+ (Restricted); or
- RC (Refused Classification).²⁷

22 *Classification Act 1995*, s. 5.

23 Before 1995, the classification of publications was voluntary, with publishers and vendors running the risk of prosecution if they dealt in publications later found to be classified at a high level.

24 Attorney-General's Department, *Submission 46*, p. 2.

25 Attorney-General's Department, *Submission 46*, p. 2.

26 Classification Board, *Annual Report 2008-09*, p. 20. Serial publication declarations are discussed further in Chapter 4.

27 *Classification Act 1995*, ss. 7(2).

3.23 Broadly speaking, films, videos and computer games are subject to compulsory classification before they can be exhibited, sold or hired out. Thirteen types of film are exempt from the requirement for classification: namely, business, accounting, professional, scientific, educational, current affairs, hobbyist, sporting, family, live performance, musical presentation, religious, and community or cultural films.²⁸ Film festivals may also operate under exemptions available under state and territory enforcement legislation.²⁹

3.24 All films and computer games submitted for classification must be viewed or played by members of the Classification Board, who then assign each item a classification.³⁰

Computer game classifications

3.25 Computer games may be classified as:

- G (General);
- PG (Parental Guidance);
- M (Mature);
- MA15+ (Mature Accompanied); or
- RC (Refused Classification).³¹

3.26 Five types of computer game are exempt from the requirement for classification: namely, business, accounting, professional, scientific and educational games.³²

Classification decisions

3.27 Applications to the Classification Board for classification can be made by members of the public, usually publishers, film or game distributors. Additionally, Commonwealth, state and territory government agencies can apply to have material classified.³³

28 *Classification Act*, ss. 5B(1).

29 See, for example, *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (Vic), Part 8; *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (NSW), s. 51.

30 Attorney-General's Department, *Submission 46*, pp 1-2.

31 *Classification Act 1995*, ss. 7(3).

32 *Classification Act 1995*, ss. 5B(2).

33 The Classification (Publications, Films and Computer Games) Regulations prescribe the fees for applications to the Board and the Review Board. The fees were last revised in 2005, although a revised fee schedule is now being considered. More information can be found at http://www.classification.gov.au/www/cob/classification.nsf/Page/IndustryFees_for_Classification, (accessed 20 June 2011).

3.28 The decision to classify a work within one of the categories listed above is made by the Classification Board (or the Classification Review Board), and is informed by principles outlined in the *Classification Act 1995* itself, the National Classification Code, the *Guidelines for the Classification of Publications 2005* and the *Guidelines for the Classification of Films and Computer Games*.

Classification provisions within the Classification Act

3.29 In addition to the National Classification Code, the *Classification Act 1995* itself also lists several matters that must be taken into account in making a decision on the classification of a publication, film or computer game. These are:

- a) the standards of morality, decency and propriety generally accepted by reasonable adults;
- b) literary, artistic or educational merit (if any);
- c) the general character of the publication, film or computer game, including whether it is of a medical, legal or scientific character; and
- d) the persons or class of persons to or amongst whom it is published or is intended or likely to be published.³⁴

3.30 In order to assist in determining the standard of morality, decency and propriety generally accepted by reasonable adults, Community Assessment Panels have, at times, been employed to ensure parity between Classification Board decisions and views of representative samples of community members.³⁵

3.31 Additionally, the *Classification Act 1995* provides that a publication, film or computer game that advocates terrorist acts must be effectively banned through a refusal of classification.³⁶ This does not apply if the depiction or description of a terrorist act could reasonably be considered to be done merely as part of public discussion or debate, or as entertainment or satire.³⁷

National Classification Code

3.32 The National Classification Code states that classification decisions are to give effect, as far as possible, to the following principles:

- a) adults should be able to read, hear and see what they want;
- b) minors should be protected from material likely to harm or disturb them;

34 *Classification Act 1995*, s. 11.

35 Attorney-General's Department, answers to questions on notice, 6 April 2011. Three Community Assessment Panels were conducted in Sydney, Brisbane and Wagga Wagga between October 1997 and March 1998. A further three panels were conducted in Perth, Adelaide and Bendigo between July 1999 and April 2000.

36 *Classification Act 1995*, s. 9A.

37 *Classification Act 1995*, ss. 9A(3).

- c) everyone should be protected from exposure to unsolicited material that they find offensive;
- d) the need to take account of community concerns about:
 - (i) depictions that condone or incite violence, particularly sexual violence; and
 - (ii) the portrayal of persons in a demeaning manner.³⁸

3.33 Additionally, the National Classification Code describes the type of content that will place a publication, film or computer game into a particular category specified in the *Classification Act 1995*. In summary, the categories are described in the following table:

Table 3.1: Summary of the National Classification Code

Publications³⁹	
Classification	Content
RC (Refused classification)	<p>describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified; or</p> <p>describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not); or</p> <p>promote, incite or instruct in matters of crime or violence</p>
Category 2 restricted	<p>explicitly depict sexual or sexually related activity between consenting adults in a way that is likely to cause offence to a reasonable adult; or</p> <p>depict, describe or express revolting or abhorrent phenomena in a way that is likely to cause offence to a reasonable adult and are unsuitable for a minor to see or read</p>

³⁸ National Classification Code, cl. 1.

³⁹ National Classification Code, cl. 2.

Category 1 restricted	<p>explicitly depict nudity, or describe or impliedly depict sexual or sexually related activity between consenting adults, in a way that is likely to cause offence to a reasonable adult; or</p> <p>describe or express in detail violence or sexual activity between consenting adults in a way that is likely to cause offence to a reasonable adult; or</p> <p>are unsuitable for a minor to see or read</p>
Unrestricted	all other publications

Films⁴⁰	
Classification	Content
Refused Classification	similar to publications
X18+	contain real depictions of actual sexual activity between consenting adults in which there is no violence, sexual violence, sexualised violence, coercion, sexually assaultive language, or fetishes or depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers, in a way that is likely to cause offence to a reasonable adult; and are unsuitable for a minor to see
R18+	not RC or X18+, but unsuitable for a minor to see
MA15+	not RC, X18+ or R18+, but depict, express or otherwise deal with sex, violence or coarse language in such a manner as to be unsuitable for viewing by persons under 15
M	do not fall into above categories, but cannot be recommended for persons under 15
PG	do not fall into above categories, but cannot be recommended for persons under 15 without the guidance of their parents or guardians
G	all other films

40 National Classification Code, cl. 3.

Computer games ⁴¹	
Refused Classification	similar to publications, but also including games that are unsuitable for a minor to see or play
MA15+	as for films
M	as for films
PG	as for films
G	as for films

3.34 The National Classification Code may only be amended by agreement with all the participating states and territories.⁴² In its 1991 report, the ALRC made recommendations to the effect that changes to the National Classification Code or the guidelines must be preceded by three months of public comment. These recommendations have been implemented by a requirement in the Intergovernmental Agreement that public submissions must be taken before any amendments are made.⁴³

Classification guidelines

3.35 The *Classification Act 1995* also provides for the Minister to determine guidelines to assist the Classification Board in applying the criteria in the National Classification Code.⁴⁴

3.36 There are two separate sets of guidelines in existence: the *Guidelines for the Classification of Publications 2005*; and the *Guidelines for the Classification of Films and Computer Games*.

3.37 Both guidelines explain the different classification categories, and the scope and limits of material for each category. Three essential principles underpin the use of the guidelines: the importance of context; assessing impact; and the six classifiable

41 National Classification Code, cl. 4.

42 *Classification Act 1995*, s. 6. The current version of the National Classification Code is a legislative instrument made under the *Classification Act 1995*. While tabled in the Australian Parliament (and other parliaments), the National Classification Code is not a disallowable instrument.

43 The requirements for parliamentary scrutiny and public involvement were discussed in the Senate's report on the 1994 Bill: Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, *Report on the consideration of the Classification (Publications, Films and Computer Games) Bill 1994*, November 1994.

44 *Classification Act 1995*, s. 12.

elements. The six elements are themes, violence, sex, language, drug use, and nudity.⁴⁵

3.38 The *Guidelines for the Classification of Films and Computer Games* provide specific criteria within each of these classifiable elements, adopting a hierarchy of impact for each category which ranges from 'very mild' (subject to a G classification) to 'very high' (Refused Classification).

3.39 A film may be Refused Classification under the *Guidelines for the Classification of Films and Computer Games* for specific content relating to crime or violence, sex or drug use.⁴⁶

3.40 The *Guidelines for the Classification of Publications 2005* similarly describe criteria by which material may fall within classification categories. In considering each classifiable element, the Classification Board must consider the impact of individual elements and their cumulative effect. Both the content and treatment of elements contribute to the impact.⁴⁷ The guidelines also differentiate standards for the content and cover of a publication.⁴⁸ According to the guidelines, a publication may be refused classification for certain content relating to sex, crime or violence and drug use.⁴⁹

Calling in material for classification and reclassification

3.41 In a case where a publication, film or computer game is not submitted to the Classification Board as required, the Director may 'call-in' the work for classification. The publishers must then submit an application for classification and pay the fee. The penalty for failure to comply is \$2,200.⁵⁰

3.42 Material can be reclassified after two years, at the request of the Minister or on the initiative of the Classification Board.⁵¹ Classifications can also be revoked if supporting material (such as assessments by applicants, television-series assessors or additional-content assessors) neglected to mention classifiable elements.⁵²

45 Classification Board, answer to question on notice, received 16 May 2011.

46 *Guidelines for the Classification of Films and Computer Games*, May 2005, <http://www.comlaw.gov.au/Series/F2005L01286>, (accessed 20 June 2011).

47 *Guidelines for the Classification of Publications 2005*, p. 4.

48 *Guidelines for the Classification of Publications 2005*, p. 6.

49 *Guidelines for the Classification of Publications 2005*, pp 14-15.

50 *Classification Act 1995*, s. 23A and s. 24.

51 Part 4 of the *Classification Act 1995*.

52 *Classification Act 1995*, s. 21A, s. 21AA and s. 21AB.

State and territory classification procedures

3.43 Although referred to as the National Classification Scheme, the scheme does not apply uniformly across all jurisdictions. Four jurisdictions have reserved censorship powers and different classification processes outside the federal system. These are briefly set out below.⁵³

Reserved censorship powers of states and territories

Queensland

3.44 Section 4 of the *Classification of Films Act 1991* (Qld) provides for the appointment of a Films Classification Officer. Section 4 also provides for a public service officer or police officer to be appointed as a classification inspector. Section 5 of the *Classification of Computer Games and Images Act 1995* (Qld) provides for a Computer Games Classification Officer who can classify an unclassified computer game on their own initiative or because of representations made to them. Section 6 of the *Classification of Publications Act 1991* (Qld) (Queensland Publications Act) provides for a Publications Classification Officer who can classify a publication that is unclassified under either the Queensland Publications Act, by applying the relevant Commonwealth provisions, on their own initiative or on the grounds of a complaint.

3.45 The committee understands that Queensland does not currently have any such officers appointed.⁵⁴

South Australia

3.46 The *Classification (Publications, Films and Computer Games) Act 1995* (SA) establishes the South Australian Classification Council (Council). The Council consists of six members appointed by the Governor for a term not exceeding three years. The Council must contain one legal practitioner, one person with expertise relating to the psychological development of young children and adolescents, and one person with 'wide experience in education'.

3.47 The Council can classify a publication, film or computer game of its own initiative, or when required to do so by the Minister. Classifications are in accordance with the National Classification Code and the guidelines, and have an effect to the exclusion of any classification under the *Classification Act 1995*.

53 Material in this section of the report is, unless otherwise indicated, taken directly from an answer to a question on notice received from the Attorney-General's Department on 6 April 2011.

54 Attorney-General's Department, answers to questions on notice, received 6 April 2011.

Tasmania

3.48 Legislation in Tasmania limits the classification of material outside of Commonwealth processes to films. Section 41A of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (Tas) allows the Minister to establish a review committee if the Minister considers that a classified film unduly emphasises matters of violence or cruelty. Section 41 allows a person to apply to the Minister for a review of a classified film, if they consider that it unduly emphasises matters of violence or cruelty. When an application is received under section 41, the Minister must establish a review committee.

3.49 A review committee would consist of no less than three persons who, in the opinion of the Minister, have suitable knowledge, expertise and qualifications to review the classification of a relevant film and make a recommendation to the Minister.

3.50 Depending upon the recommendation of a review committee, the Minister would either make an order prohibiting the sale and delivery of the film, assign a higher classification to the film, or request that the review committee reconsider its recommendation. An order assigning a classification has effect, notwithstanding the classification assigned under the *Classification Act 1995*.

3.51 The committee understands that no review committee has been established to date under the Tasmanian legislation.⁵⁵

Northern Territory

3.52 The *Classification of Publications, Film and Computer Games Act* (NT) provides for a Publications and Films Review Board which may consist of five members, including at least one woman, one man, one lawyer and one person with qualifications in literature, art or education who are satisfactory to the Minister. The Publications and Films Review Board would have the same powers and functions as the federal Classification Board.

3.53 The Attorney-General's Department indicated to the committee that it is not aware of the establishment of a Publications and Films Review Board, under the Northern Territory legislation, to date.⁵⁶

Enforcement of classification decisions

3.54 Participating states and territories use the National Classification Scheme to determine access to publications, films and computer games. Enforcement legislation enacted in each jurisdiction sets out how publications, films and computer games can

55 Attorney-General's Department, answers to question on notice, received 6 April 2011.

56 Attorney-General's Department, answers to question on notice, received 6 April 2011.

be sold, hired, exhibited, advertised and demonstrated in each state and territory. The exact restrictions vary somewhat between jurisdictions.⁵⁷

Publications

3.55 Unrestricted publications may be required by the Classification Board to be sold in a sealed package. Otherwise, they are not subject to restriction. According to its annual report, the Classification Board pays particular attention to the covers of these publications so that everyone is protected from unsolicited exposure to material that they may find offensive – one of the principles of the National Classification Code.⁵⁸

3.56 In most states and territories, Category 1 Restricted publications must be sold in sealed packages, and must not be sold to minors.⁵⁹ Similarly, Category 2 Restricted publications may only be sold or displayed in opaque wrapping and in restricted-publications areas which display a prominent sign that under-18s may not enter.⁶⁰

3.57 In Queensland, however, neither Category 1 nor Category 2 Restricted publications may be sold or displayed.⁶¹

Film classifications

3.58 State and territory enforcement legislation varies slightly but, in general, the public exhibition of films classified MA15+ and R18+ is legally restricted to persons of the appropriate age.⁶²

3.59 X18+ films may only be sold or exhibited (in certain premises) in the ACT and the Northern Territory.⁶³ Separate provisions have applied since 2007 to Indigenous communities affected by the Northern Territory Emergency Response, where possession of X18+ movies or Restricted publications is subject to fines beginning at \$5,500. These provisions will expire in 2012.⁶⁴

57 This is further discussed in Chapters 4 and 5.

58 Classification Board, *Annual Report 2009-10*, p. 36.

59 See, for example, *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (NSW), s. 20.

60 See, for example, *Classification Enforcement Act 1995* (NSW), ss. 21(1).

61 *Classification of Publications Act 1991* (Qld), s. 12.

62 See, for example, *Classification Enforcement Act 1995* (NSW), Part 2. In New South Wales, the penalty for a corporation which exhibits an MA15+ film in the presence of a minor under 15 is 20 penalty units, or \$2,200.

63 Australian Government, *Compliance for cinemas and other public exhibitors*, http://www.classification.gov.au/www/cob/classification.nsf/Page/HowtoComplywithClassificationLaws_ComplianceforCinemasandOtherPublicExhibitors, (accessed 9 May 2011).

64 *Classification Act 1995*, Part 10. There is provision in section 100A for the Indigenous Affairs Minister to consider community requests for the lifting of such a ban.

3.60 The sale or public exhibition of unclassified or Refused Classification films is prohibited by state and territory enforcement legislation.⁶⁵

Computer games

3.61 Generally, computer games (including amusement arcade games) must be classified by the Classification Board or the Classification Review Board before they can be sold, hired or demonstrated in Australia.⁶⁶

3.62 Computer games classified G, PG, M or MA15+ may generally be sold, hired or demonstrated in all states and territories.⁶⁷

3.63 This includes games that are made for mobile phones and other mobile devices.

Classification Liaison Scheme

3.64 As noted above, responsibility for the enforcement of the National Classification Scheme lies with the states and territories. National coordination is provided by the Classification Liaison Scheme (CLS), a joint Commonwealth, state and territory government initiative aimed at improving industry compliance with classification laws. The Attorney-General's Department described the scheme as follows:

The CLS has an educational role and is intended to assist retailers and distributors of publications, films (including videos and DVDs) and computer games to comply with their legal obligations under the National Classification Scheme. The Classification Liaison Scheme supports the work of State and Territory police and enforcement agencies.

Under the Scheme, Classification Liaison staff visit premises and traders in all jurisdictions and provide advice about apparent breaches, restrictions applying to the sale or display of classified products, labelling requirements and other related matters.

In addition, Classification Liaison staff investigate complaints about alleged breaches of legislation and meet with traders and industry representatives to investigate complaints through a program of site visits in each jurisdiction.

65 See, for example, *Classification Enforcement Act 1995* (NSW), s. 6.

66 Australian Government, *Compliance for sale or hire of computer games*, http://www.classification.gov.au/www/cob/classification.nsf/Page/HowtoComplywithClassificationLaws_ComplianceforSaleorHireofComputerGames, (accessed 11 May 2011).

67 Australian Government, *Compliance for sale or hire of computer games*, http://www.classification.gov.au/www/cob/classification.nsf/Page/HowtoComplywithClassificationLaws_ComplianceforSaleorHireofComputerGames, (accessed 11 May 2011).

Community Liaison staff also attend industry conferences and trade shows.⁶⁸

3.65 In 2009–10, Classification Liaison Scheme staff conducted 895 compliance checks across a range of restricted and non-restricted premises in capital cities, and regional and rural centres.⁶⁹

Enforcement applications

3.66 The *Classification Act 1995* includes provision for Commonwealth, and state and territory governments and agencies to apply to the Classification Board for a classification for the purpose of investigating or prosecuting an offence.⁷⁰

3.67 The Intergovernmental Agreement also provided for each state and territory to receive a quota of 100 free classifications or evidentiary certificates per year, with any further requests for classifications to be provided at half-fee, and further certificates at full-fee.

Other applications

3.68 In addition to classifying works submitted by members of the public, including publishers and game developers, the Classification Board also deals with referrals from the police, the Australian Customs and Border Protection Service and the Australian Communications and Media Authority (ACMA). The Classification Board also classifies internet sites referred by the ACMA and video content developed for distribution over mobile phone networks.⁷¹

68 Attorney-General's Department, *National classification scheme*, http://www.ag.gov.au/www/agd/agd.nsf/Page/Classificationpolicy_Nationalclassificationscheme#section9, (accessed 23 December 2010).

69 Attorney-General's Department, *Annual Report 2009-10*, p. 74.

70 *Classification Act 1995*, s. 22A.

71 Australian Government, *What we do*, http://www.classification.gov.au/www/cob/classification.nsf/Page/Classification_in_Australia_What_we_do#Referrals, (accessed 11 May 2011).