

## **Classification Process and Legislation**

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## 1. How are films classified?

### a) What films have to be classified?

Generally, any film for exhibition, sale or hire must be classified by the National Classification Board before it opens or goes on sale. However, some films may be eligible for an **exemption**<sup>1</sup>.

### b) How are films classified?

The distributor must submit the film to the National Classification Board for classification. There is an application form and a fee. Details of how to apply are available from the Australian Government Classification website at [www.classification.gov.au](http://www.classification.gov.au). The application is processed within 20 business days.

The National Classification Board classifies the film by viewing it and considering its contents against the [National Classification Code](#) and the [guidelines for the classification of films and computer games](#). It takes into account the considerations set down in s. 11 of the [Commonwealth Act](#), such as the artistic merit of the film and the likely or intended audience. It assigns the film to the category which seems to fit best. The National Classification Board also decides what consumer advice should accompany the film, for example, warnings about coarse language, violence, etc.

The classification determines whether there are legal restrictions on who can see the film. There are no legal restrictions on a film classified G, PG or M, but there are legal restrictions on films classified MA or R. A film classified X or RC cannot be sold or hired in South Australia - to do so is an offence.

Certain people are **eligible**<sup>2</sup> to seek a review of a classification. An application for review must be lodged within 30 days. The Review Board will consider the film and decide whether the classification should be changed. It applies the same Code and guidelines as the Classification Board, but it may take a different view of how they apply to the particular film.

In addition, South Australia has its own Classification Council which can receive complaints about a film's classification and can decide whether to classify it for South Australia. Any South Australian can make a complaint to the Council and there is no time limit.

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<sup>1</sup> As defined in s. 76-79 in the [Classification \(Publications, Films and Computer Games\) Act 1995](#) (State Act)

<sup>2</sup> As defined in s. 42 in the [Classification \(Publications, Films and Computer Games\) Act 1995](#) (Commonwealth Act)

## 2. How are publications classified?

The law does not require all publications to be classified before going on sale. Instead, a publication is only required to be classified if it is submittable.

A submittable publication is one that: ‘having regard to the Code and the classification guidelines to the extent that they relate to publications, contains depictions or descriptions of sexual matters, drugs, nudity or violence that are likely to cause offence to a reasonable adult to the extent that the publication should not be sold as an unrestricted publication.’

If a publication is submittable, it is an offence to sell it unless it is classified. The national Director and the SA Classification Council both have power to call in a submittable publication to be classified. Any publisher who is concerned that his or her publication may be submittable is wise to submit it to the National Classification Board for classification before it is published.

The National Classification Board classifies the publication by considering its contents against the [National Classification Code](#) and the [guidelines for publications](#). It takes into account the considerations set down in s. 11 of the [Commonwealth Act](#), such as the artistic merit of the publication and the likely or intended audience. It assigns the publication to the category which seems to fit best.

The classification determines whether there are legal restrictions on who can buy the publication. There are no legal restrictions on a publication which is classified Unrestricted. However, many Unrestricted publications are intended for an adult audience and may be unsuitable for younger readers. The National Classification Board may identify these with a label indicating M - for mature readers.

A publication classified Category I Restricted cannot be sold to a child. It can only be sold to adults and must be in a sealed opaque bag. However, it can be sold in ordinary shops such as newsagencies. A publication which has contents which are at the Unrestricted level, but has a cover which is not suitable for public display, can be classified Category I Restricted so that people who do not wish to see these covers need not do so.

A publication classified Category II Restricted can only be sold from **restricted premises**<sup>3</sup> (i.e. adult bookshops). Children are not allowed in these premises and these items cannot be sold or displayed to them. When the item is sold, it must be handed over in a sealed package.

A film classified X or RC cannot be sold or hired in South Australia - to do so is an offence.

Certain people are **eligible**<sup>4</sup> to seek a review of a classification. An application for review must be lodged within 30 days. The Review Board will consider the film and decide whether the classification should be changed. It applies the same Code and guidelines as the Classification Board, but it may take a different view of how they apply to the particular film.

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<sup>3</sup> As defined in s. 81 of [Classification \(Publications, Films and Computer Games\) Act 1995](#) (State Act)

<sup>4</sup> As defined in s. 42 in the [Classification \(Publications, Films and Computer Games\) Act 1995](#) (Commonwealth Act)

In addition, South Australia has its own Classification Council which can receive complaints about a film's classification and can decide whether to classify it for South Australia. Any South Australian can make a complaint to the Council and there is no time limit.

### 3. How are computer games classified?

a) What computer games have to be classified?

Generally, any computer game for sale or hire must be classified by the National Classification Board before goes on sale. However, some games may be eligible for an **exemption**<sup>5</sup>.

b) How are games classified?

The distributor must submit the game to the National Classification Board for classification. There is an application form and a fee. Details of how to apply are available from the [Australian Government Classification Board](#). The application is processed within 20 business days.

The Board classifies the game by considering its contents against the [National Classification Code](#) and the [guidelines for classification of films and computer games](#). It takes into account the considerations set down in s. 11 of the [Commonwealth Act](#), and assigns the game to the category which seems to fit best. The National Classification Board also decides what consumer advice should accompany the game, for example, warnings about violence, etc.

The classification determines whether there are legal restrictions on who can buy or play the game. There are no legal restrictions on a game classified G, G8+ or M, but there are legal restrictions on games classified MA15+. A game classified RC cannot be made available for playing or sold or hired in South Australia - to do so is an offence.

Certain people are **eligible**<sup>6</sup> to seek a review of a classification. An application for review must be lodged within 30 days. The Review Board will consider the game and decide whether the classification should be changed. It applies the same Code and guidelines as the Classification Board, but it may take a different view of how they apply to the particular game.

In addition, South Australia has its own Classification Council which can receive complaints about a game's classification and can decide whether to reclassify it for South Australia. Any South Australian can make a complaint to the Council and there is no time limit.

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<sup>5</sup> As defined in s. 76-79 in the [Classification \(Publications, Films and Computer Games\) Act 1995](#) (State Act)

<sup>6</sup> As defined in s. 42 in the [Classification \(Publications, Films and Computer Games\) Act 1995](#) (Commonwealth Act)

## 4. Where do I find the law?

The classification scheme arises from complementary State and Commonwealth legislation passed in 1995.

The Commonwealth [Classification \(Publications, Films and Computer Games\) Act 1995](#) establishes the National Classification Board, sets out the matters to be considered in classifying, and makes provision for processes such as the review of decisions. That Act also creates the [Classification Code](#), a schedule to the Act, which sets the categories for classification. Fees for classification are fixed by the Commonwealth by regulation.

The [State Act](#) of the same name deals with the legal consequences of classification. It sets the rules about what items can be legally sold, exhibited or made available in South Australia. So, for example, the State Act makes it an offence to exhibit a film classified R in a cinema if a minor is present. Offences can be reported to the South Australian police.

There are also [guidelines](#), which are not laws but which amplify the Code and are used by the National Classification Board in classifying. These are fixed by the agreement of all Commonwealth, State and Territory Ministers with censorship responsibility.

The national classification scheme deals only with film (including videotapes), publications and computer games. It does not deal with television or radio programs, which are regulated under the Broadcasting Services Act. For more information about television and radio broadcasting, visit [www.acma.gov.au](http://www.acma.gov.au), the website of the Australian Communications and Media Authority.

To access Australian legislation on the internet, visit a legal resource site such as [www.austlii.edu.au](http://www.austlii.edu.au)

## 5. Where do I find the classification guidelines?

The guidelines can be downloaded from [www.classification.gov.au](http://www.classification.gov.au), the website of the Australian Government Classification Office.

The guidelines are periodically reviewed to see that they still reflect community standards. These reviews include public consultation and are advertised in the press so that interested persons can make submissions. A review of the guidelines for films and computer games is forthcoming and interested members of the community are encouraged to submit their views.

## 6. How can I check the classification of a film, computer game or publication?

Consult the classification database at [www.classification.gov.au](http://www.classification.gov.au), the website of the Australian Government Classification Office.

Make sure that you use the exact title. If you know the name of the author/director, or the year in which the item was released, this information can be used to narrow the search. Note too that if there are different versions of the same item, such as a film, with the same title, these can be differently classified. A remake, a director's cut or a DVD of the same film will not necessarily be classified the same way, because their content may be different (and in fact, technically under the law, they are not regarded as the same film).

Note that the database may not be comprehensive, so the fact that a particular item is not on the database does not prove that it has never been classified. If you need to be certain whether a particular item has been classified, and it does not appear on the database, check with the Australian Government Classification Office by telephoning (02) 9289 7100.

## 7. How do I get an item classified?

If you intend to sell or distribute a film or computer game, you will need to ensure that it is classified, unless it is **exempt**<sup>7</sup> or you are applying for an **exemption**<sup>8</sup>. Selling or hiring an unclassified film or computer game (unless exempt) is an offence.

You can get details of how to have an item classified from the Australian Government Classification website at [www.classification.gov.au](http://www.classification.gov.au). You will need to apply, sending in the item, the application form and the required fee. The fee can be waived in some cases.

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<sup>7</sup> As defined in s. 5 in the [Classification \(Publications, Films and Computer Games\) Act 1995](#) (Commonwealth Act)

<sup>8</sup> As defined in s. 76-79 in the [Classification \(Publications, Films and Computer Games\) Act 1995](#) (State Act)