



ENFORCEMENT PACKAGE

Do I need to apply for classification and/or an evidentiary certificate?

Enforcement applicants may apply to the Office of Film and Literature Classification for either classification of a film, publication or computer game and/ or an evidentiary certificate that relates to a film, publication or computer game.

An application for classification will result in the Classification Board granting a classification decision based on the provisions of the *National Classification Code, Guidelines for the Classification of Films and Computer Games 2005, Guidelines for the Classification of Publications 2005* and *Classification (Publications, Films and Computer Games Act 1995* (the Classification Act). **Attachment 2** is an example of a classification certificate.

An application for an evidentiary certificate will result in a certificate, able to be tendered in court, that describes the action taken, or not taken, by the Classification Board in relation to a film, publication or computer game. **Attachment 3** is an example of an evidentiary certificate.

Recent amendments to the *Northern Territory Criminal Code Act* and *New South Wales Crimes Act* have resulted in certain material no longer requiring classification before proceedings for an offence under these Acts commence.

Consequently, classification before proceedings commence is no longer a legislative requirement in any State or Territory.

New South Wales

The amendments to the *NSW Crimes Act* have repealed section 578B – Possession of child pornography. Under the repealed provisions it was a requirement that a film, publication or computer game that was unclassified at the time of the alleged offence, be classified before commencement of any court proceedings. Additionally, an evidentiary certificate issued by the OFLC was considered as prima facie evidence of the matter stated in the offence.

The repealed provisions have been replaced by section 91H – Production, dissemination or possession of child pornography. It is now at the discretion of a “reasonable person” to determine whether material could be defined as ‘child pornography’

The amendments are effective from 1 January 2005 but are not retrospective. Any material seized prior to this date would require classification and an evidentiary certificate before proceeding to court.

Northern Territory

The amendments to the *NT Criminal Code Act* have repealed section 125B – Possession of child pornography and certain indecent articles. Under the repealed provisions it was a requirement that a film, publication or computer game that was unclassified at the time of the alleged offence, be classified before commencement of any court proceedings. Additionally, an evidentiary certificate issued by the OFLC was considered as prima facie evidence of the matter stated in the offence.

The repealed provisions have been replaced by section 125B – Possession of child abuse material. It is now at the discretion of a “reasonable adult” to determine whether material could be defined as ‘child abuse material’ however if required, an evidentiary certificate is still considered as prima facie evidence of the matter stated in the offence.

The amendments are effective from 10 November 2004 but are not retrospective. Any material seized prior to this date would require classification and an evidentiary certificate before proceeding to court.

Classification enforcement contacts

There are however still instances where material may be submitted for classification. These are:

- if the material seized is “borderline” to the extent that an expert opinion is required; or
- if the material seized requires classification for prosecuting an offence under State or Territory classification enforcement legislation (i.e. sale of unclassified, X 18+ or RC films).

If you have not submitted material to OFLC, for classification and are unsure whether or not classification is required you should contact your jurisdictions classification enforcement nominee.

Attachment 1 is a list of enforcement contacts in each State and Territory.

Attachments

1. Classification enforcement contacts
2. Example of a classification certificate
3. Example of an evidentiary certificate

Attachment 1: CLASSIFICATION ENFORCEMENT CONTACTS (As at 29 March 2006)

New South Wales

Team Leader
(Currently filled by Richard Long)
Child Protection and Sex Crime Squad
NSW Police
Level 6 Tower A
1 Charles Street
Parramatta NSW 2124
P: (02) 8835 8672 (88358664)
M:
E: long1ric@police.nsw.gov.au

Northern Territory

Det Sr Sgt David Proctor
Managed and Organised Crime Unit

NT Police
Peter McCauley Centre
McMillans Road
Berrimah NT 0828
P: (08) 8922 3557
M: 0417 860 709
E: david.proctor@pfes.nt.gov.au

Queensland

Joe Camilleri
Manager Investigations
Office of Fair Trading
383 Boundary St
Spring Hill Brisbane 4001
P: (07) 3115 1710
M: 0408 718 551
E: joe.camilleri@dtftwid.qld.gov.au

South Australia

Peter Broderick

State Intelligence Branch
SA Police
60 Wakefield St

Adelaide SA 5000
P: (08) 8463 7570
M: 0411 362 742
E: peter.broderick@police.sa.gov.au

ACT

Tony Brown (PA Sue Farileigh)
Director

ACT Office of Fair Trading
Level 4, 12 Moore Street

Canberra ACT 2000
P: (02) 6207 0422
M: 0407 457 680
E: tony.brown@act.gov.au

Tasmania

Det Sgt John Gilbert
Fraud Investigation Services
Hobart City Police Station
37 – 43 Liverpool Street
Hobart TAS 7001
P: (03) 6230 2663
M: 0418 336 943
E: john.gilbert@police.tas.gov.au

Western Australia

Det Sgt Sean Wright

Organised Crime Investigation
WA Police
Curtin House
7th Floor 60 Beaufort St
Perth WA 6000
P: (08) 9223 3632
M: 0418 946 050
E: sean.wright@police.wa.gov.au

Victoria

Det Superintendent Paul Hollowood
Statewide Crime Adviser, Crime
Dept
Victoria Police

412 St Kilda Rd
Melbourne VIC 3004
P: (03) 9865 2960
M:
E:
paul.hollowood@police.vic.gov.au

Attachment 2: EXAMPLE OF CLASSIFICATION CERTIFICATE (EXAMPLE ONLY)



Australian Government

**Office of Film and
Literature Classification**

File No: **T05/0000**
Classification No: **00000000**

Attention: Det. S/C John Officer
NSW POLICE
10 Sydney Road
Sydney NSW 2000

CLASSIFICATION CERTIFICATE FOR A FILM

REFUSED CLASSIFICATION

Classification (Publications, Films and Computer Games) Act 1995

I refer to your application dated 23 June 2005 for the classification of the undermentioned film. I certify that the decision of the Classification Board for this film is detailed below:

Title: **"S.E.E.B JOB NO. E05/0000"**
Version: **ORIGINAL**
Format: **CD-ROM**
Running time: **VARIABLE**
Producer: **NOT SHOWN**
Director: **NOT SHOWN**
Production company: **NOT SHOWN**
Country of origin: **NOT SHOWN**
Classification: **RC**

(a) You may appeal against this decision. If you require more information concerning the appeal process please contact the Secretary of the Classification Review Board on (02) 9289 7100.

Yours sincerely

Des Clark
Director

Dated 28 June 2005

Attachment 3: EXAMPLE OF EVIDENTIARY CERTIFICATE (EXAMPLE ONLY)



Australian Government

**Office of Film and
Literature Classification**

File No: T05/0000

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ACT 1995

SECTION 87 - CERTIFICATE*

I, Desmond Matthew Clark, Director of the Classification Board appointed under section 48 of the Commonwealth Classification (Publications, Films and Computer Games) Act 1995, ('the Act') CERTIFY pursuant to section 87 of the Act that the action described in the schedule to this certificate has been taken by the Classification Board and that the schedule is an accurate summary of the action taken by the Classification Board in relation to the item described in the schedule.

SCHEDULE

Title:	"S.E.E.B JOB NO. E05/0000"
Format:	CD-ROM
Running time:	VARIABLE
Producer:	NOT SHOWN
Director:	NOT SHOWN
Production company:	NOT SHOWN
Country of origin:	NOT SHOWN
Action:	RC
Reason for decision:	The film is classified RC in accordance with the National Classification Code, Films Table, 1. (a) as films that "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," and (b) "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)."
Certificate date:	28 June 2005

Des Clark
Director

Dated

* This certificate was provided on payment of the fee prescribed by the Classification (Publications, Films and Computer Games) Regulations 1995.