



Classification (Publications, Films and Computer Games) Amendment Bill 2006

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Law and Bills Digest Section

Contents

Purpose.....	1
Background.....	1
The National Classification Scheme	1
Classification Board and Classification Review Board	2
Office of Film and Literature Classification	3
Integration of the OFLC into the Attorney-General’s Department— Basis of policy commitment	3
Position of significant interest groups/press commentary	4
Community and Public Sector Union (CPSU)	4
ALP/Australian Democrat/Greens/Family First policy position/commitments	5
Financial implications.....	5
Main provisions	5
Schedule 1—Integration amendments	6
<i>Broadcasting Services Act 1992</i>	6
<i>Classification (Publications, Films and Computer Games) Act 1995</i>	6

<i>Freedom of Information Act 1982</i>	7
Schedule 2—Administrative arrangements of the Classification Board and the Classification Review Board	7
Schedule 3—Amendments to streamline the classification process	10
Additional-content assessment scheme	10
What is additional content?	10
Rules for classifying films with additional content	10
Revocation of classification of films containing additional content	11
Additional-content assessors and authorisation	11
Other streamlining procedures	13
Films consisting only of classified films	13
Additional features—navigation functions, descriptions, translations	13
Schedule 4—Other amendments	14
Concluding comments	14
Endnotes	15

Classification (Publications, Films and Computer Games) Amendment Bill 2006

Date introduced: 7 December 2006

House: House of Representatives

Portfolio: Attorney-General

Commencement: Various dates as set out in clause 2.

Purpose

The Bill makes amendments to:

- facilitate the abolition of the Office of Film and Literature Classification (OFLC) and fold OFLC's administrative and policy functions into the Attorney-General's Department
- remove agency management powers and financial responsibilities from the Director of the Classification Board
- ensure the Convenor of the Classification Review Board and the Director of the Classification Board have equivalent functions and powers regarding their respective Boards, and
- streamline the film classification process by fast-tracking the classification process for additional content released with already classified or exempt films.

Background

The National Classification Scheme

The national classification scheme is a cooperative arrangement between the Commonwealth, states and territories established by the *Classification (Publications, Films and Computer Games) Act 1995* (the Classification Act). The Classification Act provides that the Classification Board classifies films (including videos and DVDs), computer games and certain publications. As part of the national classification scheme, each state and territory has enacted classification enforcement legislation that complements the Commonwealth Classification Act. State and territory classification legislation prescribes penalties for classification offences and provides for enforcement of classification decisions in the particular jurisdictions.¹

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The **National Classification Code** exists as a separate document authorised by the Classification Act. It contains descriptions about the products which would fall within the classification types. For example, the Code sets out the level of depiction of sex and violence and other issues which would cause a film to be classified as G, PG, M etc. The criteria for classification are also contained in the *Guidelines for the Classification of Films and Computer Games* and the *Guidelines for the Classification of Publications*, the latest versions of which came into operation on 26 May 2005.

Classification Board and Classification Review Board

The Classification Act establishes the Classification Board and the Classification Review Board, setting out the membership and powers of each entity.

The **Classification Board** is an independent statutory body consisting of the Director, Deputy Director, Senior Classifiers and other members. The Classification Board classifies films (including videos and DVDs), computer games and certain publications. The Classification Board also classifies Internet content referred by the Australian Communications and Media Authority and provides advice to the Australian Customs Service on the importation of publications, films and computer games.

The Act states that the maximum number of positions permitted on the Classification Board is not more than 20.

The Director of the Classification Board is currently also the Chief Executive of the OFLC and the Classification Review Board.

The **Classification Review Board** (the Review Board) is an independent statutory body established to review certain decisions of the Classification Board. Although the Director of the Classification Board is Chief Executive of the Classification Review Board for the purposes of the *Financial Management and Accountability Act 1997* (FMA Act), the Classification Review Board is totally independent in its classification decision-making. The Classification Act provides that the Review Board is to consist of a Convenor, Deputy Convenor, and at least three, but not more than eight other members.

In 2005–06, the Classification Board made 8,830 classification decisions of which 15 were reviewed by the Review Board. Of the 15 reviews completed, the Review Board lowered the classification of that reached by the Classification Board on five occasions. On nine occasions the Review Board made the same classification decision as the Classification Board. In one matter, regarding the classification of a computer game, the Review Board determined a higher classification. On ten occasions, the Review Board changed the consumer advice recommended by the Classification Board.²

The Act requires that in appointing members to both Boards, regard be given to the desirability of ensuring that the membership of the Boards is broadly representative of the

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Australian community. It also requires the Attorney-General to consult all states and territories regarding proposed appointments. Appointments to the Boards are generally for three to four years and membership cannot exceed seven years in total.

Office of Film and Literature Classification

The Office of Film and Literature Classification, originally established in 1988,³ is a prescribed agency for the purposes of the FMA Act and a statutory agency for the purposes of the *Public Service Act 1999*. The Classification Board and the Classification Review Board are supported administratively by Australian Public Service staff in the OFLC. In addition, the OFLC provides advice and support to the Attorney-General, state and territory governments, industry, law-enforcement bodies and members of the public.

The OFLC does not make classification decisions, since these are the function of the Classification Board and the Classification Review Board.

At the end of the 2005-06 reporting period, there were a total of 41 Australian Public Service staff and 16 Classification Board members.⁴

Integration of the OFLC into the Attorney-General's Department— Basis of policy commitment

On 23 February 2006, the Attorney-General announced that under new administrative arrangements, the Classification Board and Classification Review Board would be separated from the other functions of the OFLC and that the OFLC's policy and administrative functions would be folded into the Attorney-General's Department.⁵

Effective 1 July 2006, all policy staff and functions would be transferred from the OFLC to the Attorney-General's Department. The remaining functions including business and financial management will be incorporated into the Attorney-General's Department by 1 July 2007. At the conclusion of the transition period, the OFLC will no longer exist as a separate agency.⁶

The Attorney-General stated that the independent classification decision-making roles of the two boards would remain unchanged. Under the new arrangements the Boards would be serviced by dedicated and co-located secretariat support provided by the Attorney-General's Department.⁷

Schedule 1 of the Bill proposes the necessary legislative amendments to implement these administrative arrangements.

The rationale for these changes is not clear from either the Attorney-General's media release or in the Second Reading speech and Explanatory Memorandum for the Bill. The

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OFLC *Annual Report* for 2005–06 does however state that the new administrative arrangements are consistent with the recommendations of the Uhrig Report, the *Review of Corporate Governance of Statutory Authorities and Office Holders*, and Government policy to reduce the number of government agencies and return policy functions to departments.⁸

Position of significant interest groups/press commentary

Community and Public Sector Union (CPSU)

The CPSU published an issues paper on the new administrative changes for classification announced by the Attorney-General. The paper is critical of the changes, raising concerns about the lack of consultation with stakeholders and questioning the rationale for the changes. The CPSU also argued that the changes could threaten the independence of the classification and censorship process. The paper states:

Advice on classification and censorship will now be provided to the Attorney-General from Departmental staff without the oversight of the Classification Board. This removal of independent oversight may provide greater potential for classification and censorship to be influenced by political considerations.

The Boards will now be serviced by a secretariat from the Attorney-General's Department, instead of by the OFLC as an arms-length government agency with greater independence.

Both Boards rely on policy advice and support from OFLC staff. This policy advice and support will now be provided by Attorney-General's Department staff located in Canberra.

Classification policy will now be developed in isolation from both Boards, by the Attorney-General's Department. Board members are selected to be broadly representative of the Australian Community.

There are concerns that this may result in the politicisation of classification and policy decisions. For example, the National Classification Code and the guidelines that govern classification and censorship decisions made by the Boards are developed in consultation with the Boards & the community by the OFLC Policy Unit. This will now be done by the Attorney-General's Department, in concert with the Minister of the day.

This is likely to lead to classification policy being developed in isolation from significant stakeholders, including the industry and the Australian community.⁹

The Attorney-General, the Hon P. Ruddock, defended the decision, saying that union concerns regarding the new administrative arrangements for the national classification scheme were without substance and the impact of the changes had been misrepresented. He noted that locating the policy and administrative functions of the OFLC within the

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Attorney-General's Department would ensure that the Boards remain, and are more clearly seen to be, independent in their decision-making.¹⁰

ALP/Australian Democrat/Greens/Family First policy position/commitments At Estimates hearings of the Senate Legal and Constitutional Legislation Committee on 24 May 2006, ALP Senator Joe Ludwig asked questions of officers from the Attorney-General's Department about the rationale for the abolition of the OFLC and its potential impact on the independence of the classification scheme.

Senator Ludwig's questions revealed that while the decision flowed from the Uhrig Review,¹¹ the decision was made by the Government without consultation with relevant stakeholders including the OFLC and the states and territories. Senator Ludwig raised concerns about the new administrative arrangements, suggesting they would result in the Classification Board and Review Board losing an important source of policy formulation to inform themselves on classification issues. In his discussions with Mr I. Anderson, First Assistant Secretary, Legal Services and Native Title Division, Senator Ludwig stated:

The director [of the Classification Board] will need support through direct staff to provide that public face to explain things to the community. If secretariat support resides in the department under your control, then it is a significant difference from what currently exists where he can, or she can in future, exercise their ability to task their employees as a separate body. If you cannot see the difference, I think everybody else can.

[...]

they will not be able to employ the staff directly or decide on the skill sets that they require. They will be all decisions that you will make.

Mr Anderson, in response stated:

There is scope for delegations of powers to the director. That is a matter that we are still considering. I cannot actually say anything further than that.¹²

Financial implications

The Explanatory Memorandum states that the Bill is not expected to have any financial impact.¹³

Main provisions

Clauses 1 and 2 contain the short title and commencement details for the proposed Act.

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Schedule 1—Integration amendments

Schedule 1 proposes the necessary legislative amendments to reflect the administrative arrangements, announced on 23 February 2006, that the Classification Board and Classification Review Board would be separated from the other functions of the OFLC and that the OFLC's policy and administrative functions would be folded into the Attorney-General's Department.

Broadcasting Services Act 1992

The OFLC does not regulate television, radio or the Internet. Rather, the Broadcasting Services Act establishes a co-regulatory scheme for broadcast services relying on codes of practice developed by industry and registered with the Australian Communications and Media Authority. For the purposes of classifying films screened on television, the Broadcasting Services Act requires that codes of practice apply the film classification system administered by the OFLC.¹⁴ **Items 1–2** are consequential amendments that change references in the Broadcasting Services Act from compliance with the film classification system 'administered by the Office of Film and Literature Classification' to that provided for by the *Classification (Publications, Films and Computer Games) Act 1995*. **Item 3** is also consequential, required as a result of the amendments to the changed staffing arrangements for the Classification Board and Review Board.¹⁵

Classification (Publications, Films and Computer Games) Act 1995

Subsection 17(5) of the Classification Act provides that the Director of the Classification Board may authorise a person who has been trained by the OFLC to assess and make recommendations on the likely classification of a computer game. **Item 4** replaces the reference to training 'by the Office of Film and Literature Classification' with training 'approved by the 'Director'.

Subsections 52(2) and (3) give the Director of the Classification Board certain powers in relation to financial matters. **Item 6** repeals these provisions, as the Attorney-General's Department will manage the financial affairs of the Board and the Review Board. **Item 5** is consequential on this repeal.

Division 3 of Part 6 of the Classification Act concerns the structure and staffing of the OFLC as a Statutory Agency for the purpose of the Public Service Act. **Item 7** repeals the Division and effectively abolishes the OFLC. **New section 88A**, inserted by **item 13** sets out the new staffing arrangements. It provides that staff assisting the Classification Board and the Review Board are to be public servants made available by the Secretary of the Attorney-General's Department.

Existing section 67 requires the Director of the Classification Board to provide the Minister with a report of the management of the administrative affairs of the Board and

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audited financial statements for the Board and Review Board. **Item 9** repeals and replaces section 67 so as to remove the financial reporting aspects of the section. Under **new section 67**, the Director will be required to give to the Minister a report of the management of the administrative affairs of the Classification Board during the financial year. The report is to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

Items 10–12 repeal sections 68, 69 and 70 respectively. These sections concern obligations to keep proper financial accounts and records of the Classification Board and Review Board, provide access to them, and have them audited by the Auditor-General. They are to be repealed because the Attorney-General's Department will assume responsibility for the financial administration of the Classification Board and Review Board activities.

Freedom of Information Act 1982

Items 14 and **15** make amendments to the Freedom of Information Act, as a consequence of the integration of the OFLC into the Attorney-General's Department. They replace references to the 'Office of Film and Literature Classification' with references to the 'Attorney-General's Department'.

Part 2 of Schedule 1 contains transitional and saving provisions flowing from the Part 1 amendments.

Schedule 2—Administrative arrangements of the Classification Board and the Classification Review Board

The Explanatory Memorandum states that the measures in **Schedule 2** are ancillary to the decision to move the OFLC into the Attorney-General's Department. It states:

The Act currently confers administrative and financial powers of both the Board and the Review Board on the Director of the Board who is concurrently the Director of the Office of Film and Literature Classification. These amendments will delineate powers and responsibilities to implement the full independence of the Board and the Review Board and remove the anomaly whereby the Review Board is reliant on the Director of the Board for some of its administrative functions.¹⁶

In essence, most of the amendments in Schedule 2 are concerned with giving the Convenor of the Review Board and the Director of the Classification Board the same administrative functions in relation to their respective Boards.

Item 1 amends section 4 to enable the Convenor (in addition to the Classification Board, the Review Board and the Director) to exercise powers and perform functions relating to

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classification that are conferred under an arrangement between the Commonwealth and the states and territories.

One of the roles of the Classification Board is to classify films, publication and computer games for enforcement agencies, such as state and territory police. In 2004, amendments were made to the Classification Act to ensure the validity of classification decisions made by the Board and the Review Board where those decisions were made on the basis of defective applications lodged by law enforcement agencies (sections 22C and section 44B). The 2004 amendments referred to decisions made by the Classification Board, the Review Board and the Director, but failed to refer to decisions made by the Convenor. **Items 2 and 8** amend sections 22C(2) and 44(B)(2) to correct this anomaly.

Under subsection 25(1), the Director is required to issue a classification certificate for material classified by the Classification Board. **Item 3** amends this section so that the Convenor will also be required to issue a certificate for material classified by the Review Board. Where the Convenor issues a certificate for material that had previously been classified by the Director, the Director's certificate is revoked when the Convenor gives the applicant written notice of the Review Board's decision (**new subsection 25(1B)**).

Section 26 requires the Director to give written notice of a decision of the Classification Board to the applicant or in some cases other interested persons (such as a publisher). Section 26 also requires the Convenor to give notice of Review Board decisions to the applicant and **item 4** will extend the Convenor's notice requirements to other interested persons.

Section 27 deals with applications to the Director of the Classification Board for copies of classification certificates or notices of decisions. **Items 5 and 6** amend section 27 to provide separate provisions in similar terms for applications to each of the Director and the Convenor for copies of classification certificates or notices of decisions made by the respective Boards.

Item 7 amends subsection 44A(1) to replace the Director with the Convenor as the person who may request copies of a particular publication, film or computer game for the purpose of the Review Board conducting a review. **Item 9** is a consequential amendment resulting from this change.

Section 59 deals with the delegation powers of the Director. **Items 10, 11 and 12** amend section 59 to reflect the new administrative arrangements abolishing the OFLC. Under **new subsection 59(2)** the Director may delegate all or any of the Classification Board's powers under the Act or regulations to staff to be made public servants by the Secretary of the Attorney-General's Department as mentioned in new section 88A. **Item 15** inserts **new section 79A**, the equivalent delegation provision affecting the Convenor of the Review Board.

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Item 14 inserts **new section 77A**. It provides that the Convenor may exercise powers conferred on him or her by a law of a state or the Northern Territory that corresponds to section 44A. Section 44A, once amended,¹⁷ will provide that the Convenor may require the relevant person to provide a copy of a publication, film or computer game for the purpose of the Review Board conducting a review of that material. The Explanatory Memorandum explains that the state and Northern Territory legislation confers the equivalent power for material in each jurisdiction and that the states and the Northern Territory will be making relevant changes to their complementary legislation to change ‘Director’ to ‘Convenor’ to come into effect in conjunction with the commencement of this provision.¹⁸

Items 13 and **26** are linked. They relocate and expand the existing provision to provide that judicial or other proceedings relating to anything done by the Convenor as well as by the Director may be brought by or against the Commonwealth (**new section 92A**).

Section 87 provides that applications may be made to the Director of the Classification Board for certificates regarding action taken or not taken under the Act. **Items 17** and **18** expand and amend section 87 so as to include separate provisions for applications to the Convenor for certificates (**new subsections 87(4), (5) and (6)**) as well as applications to the Director.

Section 87A provides the timeframe within which the Classification Board must make a decision on an application for a review of a decision. **Item 19** provides an equivalent provision in regard to the timeframe for the Review Board in making decisions (**new section 87B**).

Item 20 amends section 89 in order to include the Convenor as well as the Director in the service-of-notice arrangements under the Act.

Items 21, 22, 23 and 24 are linked. They amend section 91 to include separate provisions in similar terms for the Convenor as well as the Director to waive fees payable under the Act in respect of applications to the Classification Board or Director, and to the Review Board or the Convenor (**subsections 91(1) and 91(1A)**). The Director or Convenor may only waive payment in accordance with written principles determined by the Minister in consultation with the participating Ministers (**new subsection 91(1B)**). Under existing arrangements the principles are determined by the Director and approved by the Minister in consultation with the state and territory Ministers.

Items 16 and **25** are linked. They amend and relocate the provision that currently provides for application to the Administrative Appeals Tribunal for review of a decision of the Director to waive all or part of the fees payable under section 91. Under **new subsection 91(5)** applications may be made to the AAT for review of decisions of the Convenor as well as the Director (**item 25**).

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Part 2 of Schedule 2 contains transitional and saving provisions flowing from the Part 1 amendments.

Schedule 3—Amendments to streamline the classification process

Additional-content assessment scheme

Schedule 3 proposes amendments to introduce an additional-content assessment scheme. The scheme provides that a person appropriately trained and authorised by the Director is able to make recommendations to the Classification Board about the classification and consumer advice for additional content released with already classified or exempt films. Under the scheme the Board will retain responsibility for classifying the film, but its consideration will be assisted by the assessment of an additional-content assessor. In practical terms, the scheme would remove the requirement for reclassification of a film where a new release is made with additional content, for example, when a feature movie is released with extra material on a storage device such as a DVD.

What is additional content?

Central to the scheme is the definition of ‘additional content’ in either a classified or exempt film. Additional content includes but is not limited to:

- additional scenes for the film (such as an alternative ending or deleted scenes)
- a film of the making of the film
- interviews with, and commentaries by, directors, actors and others involved in the making of the film (**item 1**).

The Explanatory Memorandum states that additional content might also include featurettes or short films which take their meaning from the classified or exempt film but would not be marketable independently.¹⁹ Additional content does not include a ‘work’ (as defined) so therefore does not include:

- audio-visual productions that appear to be both self-contained and produced for viewing as a distinct unit
- television programmes, and
- computer games that are produced for playing independently.²⁰

Regulations may prescribe other material which is or is not ‘additional content’.

Rules for classifying films with additional content

Item 6 is the central provision in relation to the additional-content assessment scheme. It provides special rules for the classification of:

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- films which have already been classified but have additional content, or
- films which have been deemed exempt films but have additional content (**new subsection 14(5)**).

If a film has already been classified at an R rating or lower, or if a film is exempt from classification,²¹ then an applicant may submit any additional content belonging to that film and use the additional-content assessment scheme. The scheme allows an applicant to submit an assessment of the additional content prepared by an additional-content assessor. The assessment must:

- describe and report on the impact of any classifiable elements in the additional content that are at the same or higher level as the already classified film, and
- include a recommendation of the classification and appropriate consumer advice and any other matter prescribed in the regulations (**new subsection 14(6)**).

The Classification Board may then classify the film based on this recommendation. In the event the Board or Director disagrees with the recommended classification, the applicant is to be given 14 days to provide additional submissions before the Board makes a decision.

This scheme cannot be used by a person who has been given notice under section 22H by the Director because of the poor quality of assessments provided with previous applications (**new paragraph 14(5)(c)**).

Revocation of classification of films containing additional content

New section 21AA provides that the Classification Board must revoke the classification of a film containing additional content in specified circumstances which demonstrate that the assessment on which the classification was based was highly unreliable. In particular the Board *must* revoke the classification if satisfied the additional content contains elements that:

- were not brought to the Classification Board's attention, or
- were misleading, incorrect or grossly inadequate, and
- if the Board had been aware of these matters before the classification was made, it would have given the film a different classification.

Additional-content assessors and authorisation

Item 10 inserts a new Division 2A that deals with assessors for the additional-content assessment scheme.

New section 22D provides that the Director may authorise a person to prepare assessments of additional content if they have undertaken the appropriate training and if they are not

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subject to a notice issued by the Director under new section 22F barring them from being an additional-content assessor.

The Director may revoke an additional-content assessor's authorisation if satisfied that:

- the assessor has prepared an assessment of additional content but not revealed its classifiable elements as required by subsection 14(6)
- the assessor's assessment of the classifiable elements was misleading, incorrect or grossly inadequate
- the assessor has not completed further training as requested by the Director, or
- the assessor has prepared two or more assessments which contain misleading, incorrect or grossly inadequate information (**new section 22E**).

The regulations may also prescribe other conditions for revocation.

New section 22F provides stronger sanctions that can be used against assessors. The Director may effectively bar a person from being an assessor for a period of up to three years if satisfied of one or more conditions. They are:

- a classification of a film, which was classified taking into account an assessment by the person of its additional content, has been revoked under section 21AA, or
- the person has prepared two or more assessments which contain misleading, incorrect or grossly inadequate information, or
- the assessor has met another condition prescribed by the regulations.

The Explanatory Memorandum states that the sanctions to either revoke or bar an assessor as set out in new sections 22E and 22F are permissive powers, and there is no requirement that a person be barred if a condition's minimum trigger point is satisfied. 'At all times, the Director will be expected to exercise discretion and consider the nature and severity of the person's action in the circumstances.'²²

Decisions to revoke or bar additional content assessors are reviewable by the Administrative Appeals Tribunal (**new section 22G**).

New section 22H provides sanctions for the unacceptable use of the additional-content assessment scheme by applicants (such as a distributor, publisher or other industry applicant). The Director can effectively bar someone from using the scheme for a period of up to three years. Section 22H empowers the Director to issue a barring notice on certain conditions, namely where:

- at least two assessments contained misleading, incorrect or grossly inadequate information have been submitted, and

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- as a result of those assessments, the Director revoked the authorisation of the assessors who prepared them.

As stated above, **new paragraph 14(5)(c)** prevents an applicant from submitting an assessment of additional content with an application for classification of a film if a notice under section 22H is in force against that person.

Regulations may prescribe circumstances in which an assessment is taken to contain misleading, incorrect or grossly inadequate information, however such regulations would in no way limit the meaning of these terms (**new subsection 93(2)**).

Decisions by the Director to issue a notice barring an applicant from using the scheme are also reviewable by the AAT (**new section 22J**).

Other streamlining procedures

Films consisting only of classified films

New section 14A clarifies that, when several previously classified films are brought together for distribution as a single package, the product does not require classification simply because of the fact of compilation.

Additional features—navigation functions, descriptions, translations

Section 21 provides that where classified films are modified, they are considered declassified and require reclassification. **Item 8** amends subsection 21(2) so that the addition of navigation functions, or the addition of descriptions or translations to already classified films are not considered modifications requiring reclassification under section 21. The Explanatory Memorandum provides some detail of the different types of navigation functions,²³ and states their purpose is to add functionality and usability without fundamentally changing or adding to the content of the film per se.²⁴

Descriptions or translations include subtitles, captions, dubbing and audio descriptions. The Explanatory Memorandum states that they do not provide new content per se but allow the audio and visual elements of an already classified film to be accessed by those who are unable to otherwise access them.²⁵ **New paragraph 21(2)(d)(ii)** provides a safeguard to require descriptions or translations to be accurate in rendition—they must not provide a different meaning or nuance which would be likely to cause the film to receive a higher classification.

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Schedule 4—Other amendments

The miscellaneous amendments contained in Schedule 4 include the following.

Item 3 changes the requirement for the Classification Board to refuse to approve an advertisement if it depicts in an offensive way a person who is or looks like a child under 16 to a person who appears to be a child under 18.

Item 5 allow regulations to prescribe a higher number of Board members. The Classification Act currently allows for up to 20 Classification Board members and up to eight Review Board members.

Items 10–12 transfer from the Director to the Attorney-General, the power to determine markings to be displayed about classified material.

Concluding comments

The new procedures in the Bill proposing to streamline some aspects of film classification, seem appropriate in light of changing technology.

In regard to the abolition of the OFLC, questions have been raised about the lack of consultation by the Government in making this decision and about the possible impact it may have on the independence of the National Classification Scheme.

On a practical level, the new arrangements may create logistical problems with the two Boards continuing to work in Sydney while their secretariat support will operate out of the Attorney-General's Department in Canberra. On the other hand, as the Uhrig Review noted, moving a small body (such as the OFLC) back into a larger department may result in more effective administration.

Undoubtedly the future is one of administrative change for the national classification system. Des Clark, outgoing Director of the OFLC, reflecting on the changes, stated that the Australian Government and the state and territory Governments have received high-quality support services from the OFLC. Mr Clark concluded:

Going forward, the Attorney-General's Department faces the challenge of ensuring that standards of service and good relations are maintained for the benefit of consumers of entertainment media and the businesses that submit material for classification around the country.²⁶

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Endnotes

1. Office of Film and Literature Classification, *Annual Report for the Classification Board and the Classification Review Board*, 2005–2006, pp. 9–10.
2. *ibid.*, p. 93.
3. The OFLC was created on 11 April 1988 as an amalgamation within the Attorney-General's Department of the Film Censorship Board and other censorship offices of the department. Until the Office was created, publications were submitted for censorship first to the Customs Department and then to the Attorney-General's Department. The OFLC was established to classify (rather than censor) publications on a more consistent basis than had been done in the past by various Department offices and State branches. In 1996, the OFLC was established as a statutory authority under subsection 54(2) of the Classification Act. Since its establishment, the Office has been located in Sydney.
4. Office of Film and Literature Classification, *Annual Report*, *op cit.*, p. 40.
5. Hon P Ruddock, Attorney-General, *New administrative arrangements for classification*, media release, 23 February 2006.
6. Office of Film and Literature Classification, *Annual Report*, *op cit.*, p. 52.
7. *ibid.*
8. *ibid.*
9. CPSU, 'Issues paper: New administrative arrangements for classification', http://www.cpsu.org.au/news/files/cpsu_classification_issuespaper.pdf, 13 April 2006.
10. Hon. P. Ruddock, Attorney-General, *CPSU misrepresents OFLC administrative changes*, media release, 20 April 2006.
11. The Uhrig Review was looking to minimise the number of small agencies that had grown up over time. It recommended a process of consultation before implementation of its recommendations.
12. Senate Legal and Constitutional Legislation Committee, [Discussion at Estimates Hearings for the Attorney-General's Portfolio](#), *Official Committee Hansard*, 24 May 2006, p. 31.
13. Explanatory Memorandum, p. 1.
14. Office of Film and Literature Classification, *Annual Report*, *op cit.*, p. 11.
15. See items 7 and 13 of Schedule 2.
16. Explanatory Memorandum, p. 7.
17. See item 7.
18. Explanatory Memorandum, p. 11.
19. *ibid.*, p. 15.
20. This is based on the definition as amended by item 5 of Schedule 3. The Bill amends the definition of 'work' to clarify and remove ambiguities.

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21. Certain categories of films and computer games are exempt from classification under the Classification Act (section 28B).
22. Explanatory Memorandum, p. 20.
23. Navigation functions include menus, ‘play’ and ‘fast forward’ options.
24. Explanatory Memorandum, p. 17.
25. *ibid.*
26. Office of Film and Literature Classification, *Annual Report, 2005–2006, Director’s Overview*, p. 7.

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