Parliamentary Committees

Classification of Computer Games and Images and Other Legislation Amendment Bill 2012

Report No. 20

Legal Affairs and Community Safety Committee

February 2013

Legal Affairs and Community Safety Committee

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Acknowledgements

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Abbreviations

AGD	Commonwealth Attorney-General's Department
Attorney-General	The Honourable Jarrod Bleijie MP, Attorney-General and Minister for Justice
Bill	Classification of Computer Games and Images and Other Legislation Amendment Bill 2012
Classification Board	The Australian Classification Board established under *the Classification Act 1995* (Cth), which classifies films, video games and publications for exhibition, sale or hire in Australia.
Committee	Legal Affairs and Community Safety Committee
Commonwealth Act	*Classification Act 1995* (Cth)
Department	Department of Justice and Attorney-General
Literature Review	*Literature review on the impact of playing violent video games on aggression*, Commonwealth Attorney-General's Department, September 2010
RC	Refused Classification
Recording of Evidence Act	*Recording of Evidence Act 1962*
SCAG	Standing Committee of Attorneys General (now known as the Standing Council on Law and Justice)
SRB	State Reporting Bureau

Chair's foreword

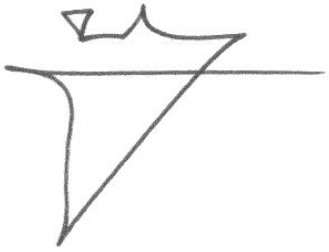
This report presents a summary of the Legal Affairs and Community Safety Committee's examination of the Classification of Computer Games and Images and Other Legislation Amendment Bill 2012.

The Committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

On behalf of the Committee, I thank those organisations who lodged written submissions on this Bill.

I also thank the Committee's Secretariat, the officers from the Department of Justice and Attorney-General for their assistance throughout the inquiry including their attendance at the public briefing and also the Queensland Parliamentary Library.

I commend the report to the House.



Mr Ian Berry MP

Chair

February 2013

Recommendations

1. Introduction

1.1 Role of the Committee

The Legal Affairs and Community Safety Committee (Committee) is a portfolio committee of the Legislative Assembly which commenced on 18 May 2012 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.[1]

The Committee's primary areas of responsibility include:

- Department of Justice and Attorney-General;
- Queensland Police Service; and
- Department of Community Safety.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation;
- the application of fundamental legislative principles; and
- for subordinate legislation – its lawfulness.

The Classification of Computer Games and Images and Other Legislation Amendment Bill 2012 (Bill) was introduced into the Legislative Assembly and referred to the Committee on 31 October 2012.

In accordance with the Standing Orders, the Committee of the Legislative Assembly required the Committee to report to the Legislative Assembly by 7 February 2013.

1.2 Inquiry process

On 2 November 2012, the Committee wrote to the Department of Justice and Attorney-General (Department) seeking advice on the Bill, and on 5 November 2012 invited stakeholders and subscribers to lodge written submissions.

The Committee received written advice from the Department and received six submissions (see **Appendix A**).

A public briefing from the Department was held on 28 November 2012 at which further questions were raised by the Committee. The transcript of the hearing is available at www.parliament.qld.gov.au/lacsc.

1.3 Policy objectives of the Classification of Computer Games and Images and Other Legislation Amendment Bill 2012

The main objective of the Bill is to amend the *Classification of Computer Games and Images Act 1995* to provide for the demonstration, sale, supply and advertisement of computer games classified as R18+ in Queensland.[2] These amendments will complement national and other state and territory laws.

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1 *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

2 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 1,

Other stated objectives of the Bill are to amend:

- the *Classification of Films Act 1991* to transfer to the Director of the Commonwealth Classification Board the function of granting exemptions to enable the exhibition of unclassified films at specified events, such as film festivals;
- the *Neighbourhood Disputes Resolution Act 2011* to amend the short title of the Act; and
- the *Recording of Evidence Act 1962* to enable the outsourcing of the recording and transcribing of legal proceedings in Queensland.

The Bill also makes miscellaneous amendments to the *Classification of Publications Act 1991*; amendments to the Criminal Code; and consequential or minor amendments to a range of other Acts listed in the Schedules to the Bill.[3]

The Honourable Jarrod Bleijie MP, Attorney-General and Minister for Justice (Attorney-General) stated in his introductory speech:

> *The main purpose of this bill is to amend the* Classification of Computer Games and Images Act 1995 *to provide for the demonstration, sale, supply and advertisement of R18+ computer games in Queensland. Under the National Classification Scheme, the classification of computer games, films and publications is jointly regulated by the Commonwealth and the states and territories. The Commonwealth legislation outlines how material is to be classified and establishes the classification board which makes the classification decisions. The states and territories enforce the classification decisions and regulate the sale, supply and advertisement of material in their respective jurisdictions.*
>
> *Last year the censorship ministers agreed to introduce an R18+ category for computer games, bringing the classification of computer games into line with the regime for films. This followed extensive public consultation, which indicated an extremely high level of community support for an R18+ classification.*
>
> *…*
>
> *In addition to establishing the new regime for R18+ computer games, the bill will also amend the* Neighbourhood Disputes Resolution Act 2011 *to add the additional words 'dividing fences and trees'. This will remove any ambiguity which currently exists about the act and will make it clear that the legislation only applies to fence and tree disputes and not general neighbourhood disputes.*
>
> *The bill also amends the* Recording of Evidence Act 1962 *to enable implementation of the government's decision to outsource the recording and transcribing of legal proceedings in Queensland. … Preparations are already well underway in the Department of Justice and Attorney-General to put the outsourced work to tender. The government is confident that outsourcing will result in a more timely service for judges, magistrates, tribunal members and parties to proceedings. Outsourcing is also anticipated to save the government up to $6 million per annum. This move will bring Queensland into line with other states like New South Wales, Victoria and Western Australia, which already outsource some or all of their court recording and transcription.*[4]

[3] Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 1.

[4] *Transcript of Proceedings,* 31 October 2012, pages 2297-2298.

1.4 Consultation on the Bill

The Committee notes the community consultation (at a national level) in relation to the R18+ classification of the computer games component of the Bill.

Consultation over an extended period of time included:

- 14 December 2009: Release of the Commonwealth discussion paper;
- November 2010: National telephone poll held by the Commonwealth Government;
- 17 November 2009: Queensland Parliament online E-Petition, "Classification of Computer Games in Queensland";
- 25 May 2011: Public release of the Draft Guidelines for the Classification of Computer Games (including an online survey seeking feedback on the introduction of an R18+ classification and the Draft Guidelines); and
- 4 November 2011: Public release of revised Draft Guidelines for the Classification of Computer Games.[5]

While there are no details of any community consultation in relation to the remaining aspects of the Bill, in relation to the *Classification of Films Act 1991,* the Director of the (Commonwealth) Classification Board was consulted.

The Chief Justice, the President of the Court of Appeal, the Chief Judge, the President of the Land Court, the Chief Magistrate and the Queensland Civil and Administrative Tribunal were all consulted on the proposed amendments to the *Recording of Evidence Act 1962* (Recording of Evidence Act).

1.5 Should the Bill be passed?

The Bill delivers on the Government's agreement in principle to introduce an R18+ classification for computer games and to amend the complementary *Classification of Computer Games and Images Act 1995* to enable the scheme to operate nationally. The Bill also contains a series of provisions that will clarify and standardise existing legislation which are relatively uncontroversial.

With respect to the amendments to the Recording of Evidence Act*,* while mindful of the concerns raised by stakeholders, the Committee is of the view that the outsourcing of the recording and transcription of legal proceedings is necessary to enable implementation of the government's decision as announced in the State Budget 2012-2013, and anticipates that this will result in a more timely service and considerable savings.

After careful examination of the individual components of the Bill and consideration of the various policy objectives that are being pursued by the Bill, the Committee considers that the Bill ought to be passed.

Recommendation 1

The Classification of Computer Games and Images and Other Legislation Amendment Bill 2012 be passed.

[5] Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 8.

2. Examination of the Classification of Computer Games and Images and Other Legislation Amendment Bill 2012

The following sections of this Part set out the Committee's examination of the discrete parts of the Bill in the order they appear in the Bill.

2.1 *Classification of Computer Games and Images Act 1995*

Part 2 (clauses 3-25) of the Bill amends the *Classification of Computer Games and Images Act 1995* to provide for the demonstration, sale, supply and advertisement of computer games classified as R18+ in Queensland. To understand the nature of the amendments, an overview of how the classification and regulation of computer games occurs in Australia is set out below.

Cooperative classification scheme

Classification of computer games in Australia is (similar to films) jointly regulated by the Commonwealth and the States and Territories under a National Classification Scheme (NCS). The NCS is a cooperative arrangement under which the Commonwealth is responsible for the classification of computer games – through a Classification Board; and the States and Territories are responsible for enforcement of the classification requirements through their own independent legislation.

The classification ratings that apply to computer games differ to those that are generally recognised for films in that until 31 December 2012, there was no R18+ category applicable to computer games.

The available ratings were:

- G (General) – Very mild impact;
- PG (Parental Guidance Recommended) – Mild impact;
- M (Recommended for mature audiences) – Moderate impact;
- MA15+ (Not suitable for people under 15) – Strong impact; and
- RC – Refused Classification.

Extensive consultation by the Commonwealth Attorney-General's Department (AGD) on whether Australia should have an R18+ classification category for computer games was conducted throughout 2009 and 2010 with the release of a discussion paper and targeted surveys.

The proposed new rating was:

- R18+ (Not suitable for people under 18) – High impact.

Results of consultation by the Commonwealth Attorney-General's Department

The AGD published its Final Report on its consultation in November 2010. The report showed the AGD had received 58,437 valid submissions from both individuals and groups in response to the direct question – '*Should the Australian National Classification Scheme include an R18+ classification category for computer games?*'

Of those submissions, 98% (57,500 submissions) supported the introduction of an R18+ classification with only 2% or 937 submitters opposing the new category.[6] Figures for individual submissions (as opposed to those from organisations) were consistent with the overall results with 98% (57,482

[6] Attorney-General's Department, *Final Report on the Public Consultation on the Possible Introduction of an R18+ Classification for Computer Games November 2010*, page 6.

submissions) supporting the introduction of an R18+ classification while 2% (921 submissions) were against the proposal.[7]

While the report does not detail the breakdown of submitters' support or otherwise on a jurisdictional basis, the Report does show a total of 13,680 submissions were received from respondents within Queensland. [8]

Given the overwhelming support from the public, the Standing Committee of Attorneys-General (SCAG) agreed, in principle, to introduce an R18+ classification for computer games, and to draft appropriate legislation to reflect the new classification as introduced by the Commonwealth.[9]

New Classification and guidelines

To enable the Classification Board to establish criteria for the R18+ classification, the Commonwealth Parliament passed the Classification (Publications, Films and Computer Games) Amendment (R18+ Computer Games) Bill 2012, with it receiving Royal assent on 6 July 2012. With the amended Act recognising the introduction of the R18+ category for computer games, SCAG agreed to create standalone guidelines for classification of computer games to take effect from 1 January 2013.

The new guidelines[10] were released in September 2012 including the criteria for the classification of the new category with States and Territories commencing the process for their own complementary legislation to ensure that R18+ computer games were regulated effectively.

The Queensland Bill

As set out earlier, the Attorney-General introduced the Bill on 31 October 2012 to establish the regulatory regime in Queensland for the new classification category. The Explanatory Notes state:

> *The amendments create offences regarding the sale, distribution and demonstration of R18+ computer games and provide for requirements regarding the labelling and advertising of R18+ games. In particular, the Bill makes amendments to the* Classification of Computer Games and Images Act 1995 *to:*
>
> - *prohibit the public demonstration (or attempted demonstration) of an R18+ computer game in the presence of a minor (maximum penalty - 50 penalty units);*
> - *prohibit the private demonstration of an R18+ computer game in the presence of a minor unless the person demonstrating the game is the parent or guardian or has the consent of a parent or guardian (maximum penalty - 50 penalty units);*
> - *prohibit the sale or delivery of an R18+ computer game to a minor (maximum penalty - 100 penalty units);*
> - *prohibit the sale or delivery of computer games which, if classified, would be classified as R18+ (maximum penalty - 100 penalty units); and*
> - *prohibit the public demonstration of a computer game classified as MA15+ or R18+ unless the determined markings for the game are displayed before the game is demonstrated (maximum penalty - 40 penalty units).*

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7 Attorney-General's Department, *Final Report on the Public Consultation on the Possible Introduction of an R18+ Classification for Computer Games November 2010*, page 7.

8 Attorney-General's Department, *Final Report on the Public Consultation on the Possible Introduction of an R18+ Classification for Computer Games November 2010*, page 7.

9 Standing Committee of Attorneys-General, *Communique 21 & 22 July 2011,* page 1.

10 Available on www.classification.gov.au

> *The Bill also amends the current definitions of "computer game" and "film" in the* Classification of Computer Games and Images Act 1995 *(and also the* Classification of Films Act 1991*) by aligning these definitions with the uniform definitions adopted by the Commonwealth and all other States and Territories. This will mean that the definition of "computer game" will be confined to computer programs or associated data capable of generating a display on a medium that allows the playing of an interactive game. It will also include "add-ons" to the original game.*
>
> *This will remove anomalies in the scope and operation of the* Classification of Computer Games and Images Act 1995 *which currently defines computer game extremely broadly to include "a computer generated image" and an "interactive film".*
>
> *The amendments will not result in any gap in overall coverage as matter covered by the current definition of "computer game" will continue to be covered by other classification legislation, primarily the* Classification of Films Act 1991*, or in some circumstances, the* Classification of Publications Act 1991*. In particular, "interactive films" will continue to be covered by the definition of "film" under the* Classification of Films Act 1991.[11]

Matters raised in submissions

In response to the Committee's call for submissions on the Bill, three submissions were received which related to the amendments to the *Classification of Computer Games and Images Act 1995.*

The Interactive Games and Entertainment Association Ltd (iGEA) stated its strong support for the introduction of an R18+ classification for computer games and accordingly supported the passage of the Bill to enable the sale of R18+ games in Queensland.[12]

The iGEA referred to the House of Representatives Standing Committee on Social Policy and Legal Affairs' Advisory Report on the Commonwealth Classification (Publications, Films and Computer Games) Amendment (R18+ Computer Games) Bill 2012 and quoted the extensive consultation that had taken place; the overwhelming support for the new classification (as set out above); and the benefits of aligning computer games with the classification of films.[13]

Family Voice Australia expressed opposing views to the new R18+ classification of computer games and proposed a number of recommendations to the Committee for consideration**.**

Content of the new guidelines for computer games

Family Voice Australia referred to the SCAG decision in December 2010 where it was decided that Ministers responsible for censorship:

> *(a) will consider draft guidelines to be developed for classification of games at their next meeting, including a possible R18+ classification, taking into account concerns raised by Ministers relating to the difference in nature of film and games; and the interactivity of games; and that there will continue to be a refused classification category, and*
>
> *(b) do not support the dilution of the refused classification category.*[14]

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11 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, pages 3-4.

12 Interactive Games and Entertainment Association Ltd, Submission 1.

13 Interactive Games and Entertainment Association Ltd, Submission 1.

14 Standing Committee of Attorneys-General, *Communiqué,* 10 December 2010, page 1.

Family Voice Australia stated:

> *A careful comparison of the new Guidelines for Computer Games which will come into effect on 1 January 2013 with the current provisions … demonstrates that this resolution has not been put into effect. Rather the new Guidelines will allow computer games with content that would previously have been Refused Classification to be classified R18+.*[15]

A comparative analysis of each of the classifiable elements for each classification category was set out by Family Voice Australia in its submission with the following recommendation proposed for the Committee to consider:

> *Unless and until they* [the guidelines] *are amended by further decision of the Ministers then the new* Guidelines for Computer Games *which come into effect on 1 January 2013 will, contrary to the decision of Ministers made at the Standing Committee of Attorneys General on 10 December 2010 dilute the RC classification and allow computer games with content that would previously have been Refused Classification to be classified R18+.*
>
> ***Recommendation 1:***
>
> *As there is a conflict between the agreement of 10 December 2010 not to dilute the Refused Classification (RC) and the new Guidelines for Computer Games, Queensland should not allow the sale of computer games classified as R18+ until the new Guidelines are amended to accurately reflect the decision of 10 December 2010.*[16]

In a similar vein, the Australian Christian Lobby submitted the following reservations:

> *ACL welcomes the possibility of games clearly already wrongly classified MA15+ being classified as restricted to adults, particularly as many such games are designed, marketed and classified for an adult audience in jurisdictions overseas.*
>
> *ACL's support of an R18+ rating for computer games is subject to strong reservations it holds about the ability of the current classification scheme to restrict the sale and availability of such games to adults. ACL remains sceptical of the claim made by supporters of the R18+ rating that its introduction is made in the interests of child welfare because of inconsistencies in the classification enforcement regime across Australian jurisdictions, and overseas research demonstrating the widespread availability of restricted games to children.*
>
> *Importantly, ACL's support for the introduction of an R18+ rating is given on the condition that this does not liberalise the market for the sale and hire of computer games. The R18+ rating should be used for games which have been wrongly classified MA15+. Games which contain more graphic violence, and which have been refused classification to this point, should continue to be refused classification.*[17]

In response to these issues, the Department stated:

> *Currently, computer games which exceed the MA15+ classification must be refused classification, even though the content, according to the current guidelines, would not place them in the RC category.*

15 Family Voice Australia, Submission 3, page 2.
16 Family Voice Australia, Submission 3, page 4.
17 Australian Christian Lobby, Submission 4, page 1.

> *The agreement not to dilute the RC category has been reflected in the new Guidelines for Computer Games and the new RC category is as stringent as the current RC category.*[18]

The Department went on to state:

> *The new Guidelines for Computer Games provide stricter classification standards than the current guidelines in all the upper content categories (i.e. MA15+; R18+ and RC) and expressly recognise the potential for the higher impact of computer games compared to films due to the interactive nature of computer games and the active repetitive involvement of the participant.*[19]

First and foremost, the Committee notes that the Bill does not deal with the criteria for classification of R18+ computer games, but sets out the enforcement regime in Queensland for the demonstration, sale, delivery and advertising of such games. In relation to any potential conflict between earlier decisions of SCAG and the approval of the guidelines which are to take effect from 1 January 2013, the Committee also notes that prior to the gazettal of the new guidelines, all State and Territory Ministers with responsibility for classification matters have agreed to the revised guidelines after extensive consultation.[20] The Committee does not consider that any such conflict occurs.

In relation to the potential dilution of the RC category, the Committee has reviewed the Guidelines and concurs with the Department that the new Guidelines which apply specifically to computer games provide stricter standards than in the past for the RC category. The Committee cannot see how an argument that the RC category will be diluted under the new classification could sensibly be mounted.

As stated by the Attorney-General in his introductory speech for the Bill, the new classification:

> *… will give parents clear and unambiguous guidance about what material is unsuitable for their children, hence protecting them from being exposed to material that may harm them. It will also give adult gamers the right to make informed choices about what they want to see and hear in a computer game.*[21]

The Committee does not consider that the introduction of an R18+ rating will liberalise the market for the sale and hire of computer games and is confident that the new rating will ensure that games which have previously been 'watered down' and possibly inappropriately classified as MA15+, will now be able to be included in the R18+ category.

The Committee is satisfied that computer games which have been refused classification to this point, will continue to be refused classification under the new Guidelines.

The Enforcement Regime

The provisions in the Bill extend the current enforcement regime to include the new R18+ classification. In doing so, the Bill creates new offences relating to the demonstration, sale, delivery and advertising of R18+ computer games and makes consequential amendments to the *Classification of Computer Games and Images Act 1995* to ensure there is consistency with the Commonwealth Act and the Acts of other jurisdictions.

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18 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, page 2.

19 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, page 2.

20 The Honourable Jason Clare MP, Minister for Home Affairs, Minister for Justice - Media Release 12 September 2012.

21 *Transcript of Proceedings,* 31 October 2012, page 2298.

The Committee notes the Department's advice that the penalties across jurisdictions vary widely, but that the proposed penalties for Queensland will align with the equivalent R18+ penalty offences which apply in New South Wales.[22]

The Bill also increases the maximum penalties of several other offences in the computer games legislation to ensure the penalties are consistent. The Committee also notes the Bill will increase the maximum penalties for:

- the sale or delivery of an MA15+ computer game to minors; and
- the sale of unclassified computer games, which, if they were classified, would be classified as MA15+.[23]

The Australian Christian Lobby submitted:

> *ACL is concerned that the new Guidelines may permit a higher level of violence in video game content in the Australian market, and that this will increase the possibility of children accessing games which are suitable only for adults. Despite the sale of games with an R18+ rating theoretically being restricted to adults, in practice children have had little difficulty accessing such games …*
>
> *… the* [Australian Law Reform Commission] *recommends that the Commonwealth "should be responsible for the enforcement of classification laws and makes recommendations for a regime of offences and penalties"[8]. ACL agrees with this recommendation.*[24]
>
> [8] *Australian Law Reform Commission (2012),* Classification – Content Regulation and Convergent Media*, p. 353*

The Department, in its response to submissions provided:

> *Reforms to the national classification scheme are currently being considered through the Standing Council on Law and Justice (SCLJ). This follows the tabling of the Commonwealth Senate Legal and Constitutional Affairs Committee Report into the scheme in 2011. The Report,* Review of the National Classification Scheme: Achieving the Right Balance *made 30 recommendations for major reforms to improve the operation of the scheme. The SCLJ has not yet considered the report in any detail and over the coming year, the Commonwealth, States and Territories plan to analyse the recommendations of the report to determine which recommendations should be supported.*[25]

The Committee considers that the regulatory regime proposed in Queensland for the R18+ games sets the right parameters to ensure the sale of restricted games in Queensland is limited to adults and that the proposed penalties will deter businesses from selling restricted games to children. In relation to the scale of the penalties contained in the Bill, the Committee asked the Department how it determined the level of penalties for the relevant offences as it could be considered they were somewhat higher than could be expected. The Department responded:

> *… this is one of those areas where there is a commercial benefit in noncompliance so the penalties have to be realistically set at a level which is actually going to be a deterrent and not just illusory. So, yes, they do seem high I suppose, but if you look at the general panorama of offences across the other jurisdictions the Queensland offences are consistent*

22 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 2.

23 Clauses 17 and 18, Classification of Computer Games and Images and Other Legislation Amendment Bill 2012.

24 Australian Christian Lobby, Submission 4, pages 3-4.

25 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, pages 4-5.

> *with the New South Wales penalties and lower than those in the Northern Territory. It is pitched at a level which we think is appropriate.*[26]

The Department also confirmed that many of the offences are those which can be dealt with by infringement notices which are administered by the State Penalties Enforcement Regulation and are not dealt with in a Court. In those instances, the general formula used is that the penalty is one tenth of the prescribed maximum penalty.[27]

The Committee considers that the Bill strikes an appropriate balance between providing an effective deterrent for commercial businesses that are intent on breaching the classification provisions, while still not imposing penalties that are overly harsh for other members of the public who may breach the requirements in a private capacity.

Details of the new penalties and increase in existing penalties are set out further in the Part 3 of this Report.

Timing of the Amendments

The Committee notes that while the amendments to the Commonwealth Act will commence on 1 January 2013, Queensland will not have passed the Bill at this time and is likely that Queensland's new enforcement regime will not commence until sometime in mid to late February 2013.

Family Voice Australia submitted that it is imperative that Queensland pass enforcement legislation addressing R18+ computer games before 1 January 2013 otherwise there will be no enforcement provisions relating to the sale of R18+ computer games and they could be sold, even to minors, without penalty.[28] This view has also been reported in several news articles asserting there will be "free reign" to sell R18+ games to children in Queensland without penalty until the laws are passed.[29]

The Committee rejects this assertion in its entirety, noting the advice from the Department which states:

> *The* Classification of Computer Games and Images Act 1995 *(Qld) (the Act) currently provides a rigorous regulatory regime for objectionable computer games (Part 5 of the Act). The Act defines "objectionable computer game" to include "*a computer game or advertisement for a computer game that is unsuitable for a minor to view or play*". This clearly covers computer games which will be classified as R18+ following 1 January 2013.*
>
> *This means that until the Bill is passed and commenced, there will be a rigorous regime in place in Queensland to ensure that minors are not able to purchase R18+ computer games.*
>
> *There will be a general prohibition on the public demonstration or sale of R18+ computer games to anyone in Queensland. The private demonstration of R18+ games to a minor is also prohibited as is having possession of R18+ computer games for sale. The contravention of these prohibitions is subject to significant penalties, including a maximum penalty of 60 penalty units ($6,600 fine) or imprisonment for six months for the sale of objectionable computer games (which will include R18+ games).*

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26 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 5.

27 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 5.

28 Family Voice Australia, Submission 3, page 5.

29 *Queensland children fair game for new 18+ rating,* The Courier-Mail, 4 December 2012.

> *The Queensland Office of Fair Trading has been fully informed in relation to the enforcement regime for R18+ computer games from 1 January 2013 and inspectors are prepared to take enforcement action as necessary under the Act.*[30]

The Committee also notes the Australian Classification website contains a notice to Queensland retailers that the legislation to regulate R18+ computer games in Queensland is not yet passed and that queries should be directed to the Department.

While it is regrettable that the Bill will not be passed prior to the new classification coming into force, the Committee considers that this is certainly not fatal to the operation of the national cooperative scheme. The Committee considers the current provisions of the *Classification of Computer Games and Images Act 1995* will apply adequately until the amendments in the Bill are passed and the Committee is confident that the matter will be put to rest when the Legislative Assembly considers the Bill at the earliest available opportunity in 2013.

Violence in computer games

Citing numerous sources, Family Voice Australia submitted that detailed empirical studies demonstrate that violent computer games can have a range of detrimental effects on players:

> *There is now a substantial body of scientific research into the effects of violent computer games on players. This research demonstrates that violent computer games are significantly associated with:*
>
> - *increased aggressive behaviour, thoughts and affect;*
> - *increased physiological arousal;*
> - *decreased pro-social (helping) behaviour.*
>
> *…*
>
> *There are three reasons why the effect of violence from playing a computer game is likely to be greater than that from viewing a film:*
>
> - *in playing a computer game the player often identifies with the aggressor;*
> - *in playing a computer game the player often actively rehearses the whole sequence of aggression; and*
> - *in violent computer games the proportion of the game devoted to violence is higher than for most violent films.*[31]

Family Voice Australia recommended to the Committee that prohibition on the sale of violent computer games after 1 January 2013 can only be achieved by prohibiting the sale of R18+ computer games. Family Voice Australia submitted that the Queensland Government take steps to ensure the prohibition is enacted before that date.[32]

The Department, in its response to this issue stated:

> *Public consultation included the release of a Discussion Paper by the Commonwealth Attorney-General's Department "*Should the Australian National Classification Scheme include an R 18+ Classification Category for Computer Games*" in 2010 which canvassed the arguments for and against the introduction of an R18+ game, including the argument of*

30 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, page 3.

31 Family Voice Australia, Submission 3, pages 5-7.

32 Family Voice Australia, Submission 3, pages 2-7.

*negative effects on players and the risk that the introduction of an R18+ classification may mean that minors may to be able to access games with high impact violence more than is currently possible. The Discussion Paper noted that "*research into the effect of violent computer games is polarised*".*

Almost 60,000 individuals and organisations made written submissions in response to a discussion paper on the issue. Of these, 98 percent of the respondents supported the introduction of an R18+ category for computer games. In a subsequent telephone poll, 80 per cent of the 2,000 people polled across Australia expressed support.

The Bill addresses the issue of access by minors by establishing a rigorous enforcement regime for the R18+ classification with substantial penalties for offences relating to demonstration, sale or supply of R18+ games to minors. In particular, the Bill:

- *prohibits the public demonstration (or attempted demonstration) of an R18+ computer game in the presence of a minor (maximum penalty - 50 penalty units);*
- *prohibits the private demonstration of an R18+ computer game in the presence of a minor unless the person demonstrating the game is the parent or guardian or has the consent of a parent or guardian (maximum penalty - 50 penalty units);*
- *prohibits the sale or delivery of an R18+ computer game to a minor (maximum penalty - 100 penalty units).*[33]

The Committee has considered the *Literature review on the impact of playing violent video games on aggression* (Literature Review) prepared by the AGD in 2010 which was used to inform the SCAG considerations of whether to create the new R18+ classification.

The Committee notes in the concluding remarks of that review:

Overall, the literature examining VVG [violent video games] *effects on aggression is divided. A 2010 meta-analysis involved vast numbers of studies and participants, and is viewed as the pinnacle of the debate so far. The authors found an overall effect size of r = 0.24 (r = 0.15 when controlling for gender and prior aggression), which is in the small to moderate range. The high prevalence of VVG use in the community means this small effect size remains a cause for concern.*

However, there are a number of issues that have been raised with the VVG effect literature that arguably reduce the literature's policy relevance. These include:

- *the divided nature of the literature, which is embroiled in a larger social and political controversy;*
- *the contested definitions and measures of 'aggression' and 'violent video games';*
- *that insufficient attention has been directed at third variables which may explain some of the effect;*
- *that the strongest evidence has been found for short term VVG effects, and conclusions regarding long term effects have not been as strong;*
- *that there is little evidence there is any difference in the effect of VVGs on children, adolescents and young adults;*

[33] Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, pages 3-4.

- *that some studies appear to show games featuring cartoonish violence are just as harmful as games featuring realistic violence; and*
- *there is no conclusive evidence that VVGs are more harmful than other violent media.*

Significant harmful effects from VVGs have not been persuasively proven or disproven. There is some consensus that VVGs may be harmful to certain populations, such as people with aggressive and psychotic personality traits. Overall, most studies have consistently shown a small statistical effect of VVG exposure on aggressive behaviour, but there are problems with these findings that reduce their policy relevance. Overall, as illustrated in this review, research into the effects of VVGs on aggression is contested and inconclusive.[34]

Also, in relation to violence in computer games, the Australian Christian Lobby quoted from the meta-analysis considered in the Literature Review:

The well-considered view of professional associations on the matter of video game violence is based on a strong body of academic research. A recent and rigorous meta-analysis of existing research of video game violence authored by Swing and Anderson, among others, came to this conclusion:

> *Concerning public policy, we believe that debates can and should finally move beyond the simple question of whether violent video game play is a causal risk factor for aggressive behavior; the scientific literature has effectively and clearly shown the answer to be "yes." Instead, we believe the public policy debate should move to questions concerning how best to deal with this risk factor.*[5]
>
> [5] *Anderson, C.A. et al (2010), 'Violent Video Game Effects on Aggression, Empathy, and Prosocial Behavior in Eastern and Western Countries: A Meta-Analytic Review', Psychological Bulletin, 136(2), 151–173, p. 171*

If, as the research demonstrates and professional associations agree, there is a link between video game violence and aggressive behaviour, especially in children and adolescents, it is incumbent upon policy makers to ensure appropriate mechanisms are in place to prevent children from gaining access to violent games.[35]

While the Committee is mindful of the issues raised by both Family Voice Australia and the Australian Christian Lobby, it is apparent to the Committee from the Literature Review that there is no conclusive evidence linking violent computer games to increased aggressive behaviour. That being said, the Committee considers that, as submitted by the Australian Christian Lobby, appropriate mechanisms must be put in place to prevent children viewing or playing computer games which are not suitable.

The Committee considers that a robust regulatory regime with strong penalties, such as that proposed in the Bill, will assist in ensuring that games rated at R18+ do not become available to minors. The Committee considers the Bill will limit the exposure to minors of the strong themes and violent actions being undertaken in those games whilst allowing adult gamers to exercise appropriate choice in playing games classified as suitable for adults under the national classification scheme.

The Committee also notes that this issue was considered by its predecessor, the Law, Justice and Safety Committee, in its 2010 inquiry into alcohol-related violence, when it made the following recommendation championed by the Honourable Dean Wells MP:

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34 Attorney-General's Department, *Literature review on the impact of playing violent video games on aggression*, September 2010, page 42.

35 Australian Christian Lobby, Submission 4, page 3.

> *That the Government consider strategies for determining the effect of violent video games on youth violence, including literature reviews, case studies and investigation.*[36]

The then Government supported the recommendation stating in its response to the Committee:

> [The Department of Communities] *will utilise and build upon work undertaken at the Commonwealth level in the development of strategies responding to youth violent offending. This will include analysis of existing literature and case studies on the effect of violent video games on youth violence.*[37]

The Committee is not aware of the public release by the Department of Communities or its successor Departments on its further work in this area. The Committee considers that with the introduction of the R18+ classification for computer games, it would be timely for the Government to continue its work in this area, possibly in conjunction with the Commissioner for Children and Young People and Child Guardian to monitor the possible effects of violent video games on youth violence in Queensland.

The Committee notes the Attorney-General's strong interest in matters relating to youth justice and curbing youth violence and considers that this is a valuable area of research that must be progressed and will provide positive outcomes for Queensland children.

Recommendation 2

The Attorney-General and Minister for Justice, after liaising with relevant Ministers, update the Legislative Assembly on the status of the Government's consideration of strategies for determining the effect of violent computer games on youth violence; and continue to monitor the effects of violent computer games post the introduction of the R18+ classification and report to the Legislative Assembly in 24 months on its findings.

In summary, the Committee regards the proposed amendments as vital to fulfilling the Government's agreement at the Standing Committee of Attorneys-General, and notes the overwhelming support for an R18+ classification for computer games in Queensland.

The Committee is satisfied the proposed enforcement regime for the new R18+ classification strikes an appropriate balance between the need for children to be protected from content in restricted computer games and the ability for adult gamers to make an informed choice on playing games with adult themes and content, in the privacy of their own homes.

2.2 *Classification of Films Act 1991*

Part 3 (clauses 26-39) of the Bill amends the *Classification of Films Act 1991* to transfer the function of granting exemptions to enable the exhibition of unclassified films at specified events to the Director of the Classification Board.

As the Explanatory Notes explain, this objective will be achieved by:

> *… providing that the Director of the Classification Board will be the sole decision maker in relation to giving exemptions to enable the exhibition of unclassified films at specified events, such as film festivals. This will bring Queensland into line with other States and Territories and promote the objectives of the national cooperative classification scheme. The*

[36] Law, Justice and Safety Committee, Report No. 74, *Inquiry into Alcohol-Related Violence - Final Report,* March 2010.

[37] *Final government response to the Law, Justice and Safety Committee's report no. 74, Alcohol-Related Violence*, 27 August 2010.

> *new arrangements will standardise and streamline the process of obtaining exemptions for national film event organisers who currently have to submit applications to both the Commonwealth and Queensland Governments. It will also relieve Queensland of the administrative burden of assessing hundreds of films for exemption each year, many of which have already been assessed by the Commonwealth.*[38]

The Committee has reviewed these clauses and is satisfied that no issues of concern arise out of the proposed changes.

The Committee notes that the amendments will streamline processes and will result in a lessened administrative burden for Queensland and therefore supports the amendments.

Part 3 of the Bill also increases the penalties for the display and sale of objectionable and unclassified films within Queensland. The Committee considers the increase in penalties to be justifiable and sends a strong message to the community that the Classification Scheme is not simply a guideline, but a regulatory regime that must be complied with. Details of the increase in penalties are set out in Part 3 of this Report.

2.3 *Classification of Publications Act 1991*

Part 4 (clauses 40 and 41) of the Bill amends the *Classification of Publications Act 1991* to ensure consistency with the computer game and film classification legislation and thus provides protection from criminal liability for officials.[39] Further information on this section is set out in Part 3 of this Report which deals with Fundamental Legislative Principles.

2.4 *Criminal Code Act 1899*

Part 5 (clauses 42 and 43) of the Bill amends the *Criminal Code Act 1899*. These changes are necessary as a consequence of the amendments proposed to the *Classification of Computer Games and Images Act 1995* in relation to defences for offences relating to child exploitation material.

The Committee considers these amendments are necessary to support the changes to the *Classification of Computer Games and Images Act 1995* provided for in Part 2 of the Bill. The Committee notes the amendments are largely due to changes in definitions which will be used in the amended *Classification of Computer Games and Images Act 1995,* in particular the use of the new definition of 'computer games' which appears in the Commonwealth Act.

2.5 *Land Act 1994*

Part 6 (clauses 44 and 45) of the Bill will amend the *Land Act 1994*. These changes are necessary to support the proposed name change to the *Neighbourhood Disputes Resolution Act 2011*, discussed next in this Report.

The Committee regards these amendments as non-contentious and notes there were no issues of concern raised by submitters.

2.6 *Neighbourhood Disputes Resolution Act 2011*

The Bill, if passed, will amend the short title of the *Neighbourhood Disputes Resolution Act 2011* (to the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011. This amendment is contained in Part 7; clauses 46 and 47 of the Bill.

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38 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, pages 4-5.

39 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 1.

The reason for this amendment is canvassed in the Explanatory Notes:

> *The purpose of the* Neighbourhood Disputes Resolution Act 2011 *(NDR Act) is to assist neighbours to resolve issues about dividing fences and trees. Anecdotal evidence indicates that the title of the NDR Act can create confusion amongst members of the community who assume that it applies to all neighbourhood disputes and not just disputes about dividing fences and trees.*[40]

The Committee has reviewed the relevant clauses of the Bill relating to the *Neighbourhood Disputes Resolution Act 2011* and considers the amendments to be of a sensible and practical nature. The amendments will assist members of the community in understanding the nature of what matters are able to be dealt with under that Act and will reduce the level of confusion within the community.

2.7 *Recording of Evidence Act 1962*

Part 8 (clauses 48-59) of the Bill amends the *Recording of Evidence Act 1962* to enable the outsourcing of the recording and transcribing of legal proceedings in Queensland.

Currently, legal proceedings in Queensland courts and tribunals, including oral evidence, sentencing remarks and legal argument, are generally recorded and transcribed by the State Reporting Bureau in accordance with the provisions of the *Recording of Evidence Act 1962* and the *Recording of Evidence Regulation 2008*.[41] As part of the 2012-13 State Budget, the Government announced that the recording and transcription of legal proceedings in Queensland is to be outsourced.

It has been outlined to the Committee that the decision to outsource these services has been made for the following two reasons:

1. to improve the recording and transcribing services; and
2. to make financial savings.[42]

The Bill will therefore make appropriate amendments to the Recording of Evidence Act to no longer provide for the appointment and employment of shorthand reporters or recorders by the chief executive of the Department and instead provide that the recording of legal proceedings may be done either:

(a) under an arrangement entered into between the chief executive of the Department and another person – enabling the outsourcing to an external party; or

(b) by an employee of the Department – catering for the situation where highly sensitive proceedings may be recorded by a court officer with a handheld device; or

(c) in relation to QCAT, by a member or an adjudicator of QCAT – catering for the situation when QCAT proceedings are held in regional areas and the member or adjudicator records the proceedings themselves rather than by a clerk.[43]

With respect to the fundamental policy of outsourcing the recording and transcription services to (1) improve the delivery of those services, and (2) improve the State's fiscal position, the Committee

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40 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 3.

41 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, Department of Justice and Attorney-General, *Parliamentary Committee Briefing Note*, 13 November 2012, page 3.

42 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 3.

43 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, Department of Justice and Attorney-General, *Parliamentary Committee Briefing Note*, 13 November 2012, page 3.

does not have any major concerns provided that that the new 'arrangements' entered into are sound. The three submissions[44] received in relation to this aspect of the Bill, similarly do not appear to oppose the policy of outsourcing the recording services however each of the submissions has raised various matters which they consider must be addressed to ensure the proper administration of the justice system is maintained.

To achieve the desired policy outcome, the provisions contained in the Bill are somewhat straightforward and are essentially technical in nature. The substance of the provisions is to simply amend the Recording of Evidence Act to cater for the above categories of persons to record or transcribe a court proceeding.

The only substantive amendments to the Recording of Evidence Act appear to be the replacement of the current section 5 and insertion of the new sections 5A and 5B (clause 50 of the Bill) coupled with the removal of the current sections 6 through to 9 (clause 51 of the Bill). There are no specific details contained in the Bill as to how the ongoing outsourcing "arrangements" that will be entered into, will be managed.

In relation to the arrangements, the Department advised the Committee that the tender was advertised to the market on 22 November 2012 and closed on 7 January 2013. As at the date of this report, the Committee has no knowledge of the preferred service provider. The Committee understands, again from advice from the Department, it is estimated that a contract will be signed by 28 February 2013, enabling implementation to commence from March 2013.[45]

As stated by the Acting Director-General of the Department at the public hearing on the Bill:

> *A draft of the bill was provided for comment to the Chief Justice, the President of the Court of Appeal, the Chief Judge, the President of the Land Court, the Chief Magistrate and the Queensland Civil and Administrative Tribunal. Common comments that were made from the judiciary about the amendments were as follows: firstly, how privacy and confidentiality of records would be maintained; how standards of accuracy would be maintained; and ensuring secure storage, archiving and an ability to search records. These issues will be dealt with in an operational rather than a legislative manner by means of ensuring the tender documents and the final contractual arrangements cover these aspects of the service delivered. The judiciary is being consulted on relevant parts of the tender documents.*[46]

The Committee agrees that it would not be appropriate for the detailed arrangements that are entered into with the successful service provider to be set out in the legislation; the Committee considers the final arrangements will be important to the ongoing success or otherwise of the outsourcing policy.

At the briefing, the Committee raised the issue of whether there would be an established compliance regime for the successful proponent who goes on to provide the service to try to better understand how the arrangements would work. The Department advised:

> *... there are very tight key performance indicators in place and there will be a penalty regime different from the normal penalty unit in Queensland that will apply to whether they meet or depart from those key performance indicators. There is an escalation process depending on their level of departure from those key performance indicators, the most*

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44 Land Court of Queensland, Submission 2; Bar Association of Queensland, Submission 5; Queensland Law Society, Submission 6.

45 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 3.

46 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 3.

> *serious being cancellation of the contract. But there is a range of steps that will be in place that will be instigated if they do not meet the key performance indicators.*[47]

The issue was explored further, with the Committee seeking reassurance that there would be a clear level of accountability for any service provider in performing its functions. The Department again advised:

> *We are in the process where the tender is out there and we have not made a decision yet. We are working very closely with crown law. Crown law have been engaged from day one with respect to this process to ensure that the contractual documentation, the tender documentation, provides that if there is a departure in the provision of time frames or the vendor not meeting our needs—for example, the vendor has to maintain very detailed audit trails of who accesses all their audio and all their transcripts within their workforce. Those audit trails have to be maintained. They have to be available to us as a customer on request.*
>
> *We have put in place a number of mechanisms to ensure that with regard to everything the vendor does on our behalf we are aware of who has touched that material. If for some reason information is made available to a nonparty of a matter which should not have been made available, we are aware of exactly who made that breach. Again, we have put measures in place and we will be checking this stuff through the evaluation process to ensure these measures are in place before the vendor does any recording or transcription for the Queensland courts.*
>
> *...*
>
> *The department, in outsourcing the work, will not be absolving itself of responsibility for the actions of the provider. We* [the Department] *will be accountable if there are any problems in that sense. We are establishing a unit in the department that will have an ongoing monitoring function with respect to the work of the provider. That is essentially how it will work.*[48]

While the Committee is satisfied, from the advice received by the Department, that the processes to be put in place for the selection of and ongoing monitoring of the service provider will be appropriate, the Committee considers that in accordance with the Government's ongoing commitment to openness and transparency, the terms of any 'arrangement' entered into by the chief executive under the new section 5A – should be tabled in the Legislative Assembly within 14 sittings days of commencement.

The Committee considers this release of information will ensure the public has full details of the key performance indicators that have been set for the service provider and will improve the public's confidence in the administration of the justice system, which is paramount.

Recommendation 3

The Attorney-General and Minister for Justice consider what information relating to the ongoing operation of the arrangement entered into by the chief executive are intended to be released by the Government under the open data initiative which was announced in 2012.

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47 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 6.

48 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 7.

Matters raised in consultation and submissions

The submissions raised a number of matters relating to the operations of the outsourced transcription service provider which the Committee has considered.

Recorders to be under the direction of the court or judicial person

The Department advised the Committee at the public briefing that a theme that came through from comments from the judiciary in its consultation on the Bill was concerning the removal of the court's ability to direct a recorder since recorders will no longer be appointed as officers of the court.[49] This issue was specifically raised again with the Committee by the Registrar of the Land Court of Queensland where it was submitted:[50]

> *Under the Act as it currently stands, all shorthand reporters and recorders are required to take an oath of office (see s.7 of the Act) and it is provided that every person recording a legal proceeding under the Act shall be an officer of the court and be under the direction of the court or judicial person in which or before whom the legal proceeding is being heard, in relation to (amongst other things) performing the person's duty or other matter (see s.8 of the Act).*
>
> *Clause 51 of the Bill proposes to delete ss.7 and 8 of the Act without any replacement provisions - it appears that the "devil will be in the detail" of the "arrangements" that the chief executive may now make with persons to provide a recording service under proposed new section 5A (see Clause 50 of the Bill). Public service employees will presumably be governed by the terms of their employment and the* Public Service Act 2008*.*
>
> *The* [Land Court of Queensland] *considers it would be appropriate to amend the Bill to expressly empower courts and judicial persons to give directions, as and when required, to recorders who have been engaged by the chief executive under section 5A and also to public service employees who provide a recording service under the Act.*
>
> *It is noted that proposed new s.5(1), inserted by Clause 50 of the Bill, provides that all relevant matter in a legal proceeding is to be recorded (ie. the evidence, rulings, directions, summing-up, etc.) and new s.5(3) says "Subsection (1) applies subject to any direction given by the court in which, or judicial person before whom, the legal proceeding is being taken". In other words, the court or judge may give a direction about the recording of relevant matter in a legal proceeding, but this appears to be a watering down of the current Act which expressly provides that the recorder is under the direction of the court or judge when performing the person's functions (see s.8(b) of the Act).*

The Land Court of Queensland submission goes on to recommend that the Bill be amended to maintain the current position under the Recording of Evidence Act that recorders are under the direction of the court or judicial person when the recorder is performing his/her functions.[51]

In response to the submission, the Department provided:

> *It appears that the concern is about the ability of a judicial person to give a direction to a recorder who is present in court. Under the new arrangements, except for a very small selection of cases where a hand held recording device is used, the recording system will generally operate remotely, subject to vendor submissions. Therefore in most cases there will not be a 'recorder' present in court to be 'directed'.*

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49 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 4.

50 Land Court of Queensland, Submission 2, pages 1-2.

51 Land Court of Queensland, Submission 2, page 2.

The tender documents issued on 22 November 2012 relevantly provide as follows:

- *the contractor must maintain a regular line of communication with each court being monitored;*
- *the contractor must provide a mechanism for temporarily pausing recording at the direction of the judicial person or court;*
- *a judicial person may require a transcription to be provided in shorter timeframe than provided under standing arrangements.*

Further, if a judicial person needs access to a transcript in order to correct it, this will remain the case.

The Department of Justice and Attorney-General's (DJAG} view is that the inclusions in the tender documents are sufficiently detailed to ensure the needs of the court or judicial person are met by the contractor. Legislation is not required to ensure this happens.[52]

The Department also advised at the public briefing that judicial officers are able to turn off the recording system, which is sometimes required in the case of warrant applications and that there will be means for communication between the courtroom and the 'vendor monitoring staff'.[53]

It was outlined to the Committee that:

Outsourcing of recording and transcribing is already happening in other states and territories. Western Australia outsources the recording and transcription of all court proceedings. In Victoria, transcription of civil proceedings in the Supreme and County Court is undertaken by the private sector and for all Magistrates Court and Victorian Civil and Administrative Tribunal proceedings. The recording and transcription of all proceedings in the Federal Court, the Family Court and the federal Magistrates Court have been outsourced and New South Wales has ad hoc outsourcing of transcript production. An outsource model has also been implemented in the Northern Territory and the Australian Capital Territory.[54]

The Committee is satisfied that no amendment to the Bill is required however the Department must ensure the concerns of the Land Court, in relation to judicial officers being able to direct or control the recording of hearings, are fully addressed in the final arrangements which are entered into, to the satisfaction of the courts.

Confidentiality of information

Several issues were raised in relation to the confidentiality of material under the proposed outsourcing arrangements. At the public briefing on the Bill, as this matter had been raised in consultation, the Department advised the Committee:

... I want to give the committee some information about how highly sensitive proceedings will be handled. These proceedings have been classified as protected information according to the Queensland Government Information Security Classification Framework. The tender has imposed the following requirements on the vendor. These requirements are additional to those the vendor will be required to adhere to in accordance with the security classification framework I have just mentioned. Firstly, transcriptions must not be prepared

52 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, page 5.

53 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 4.

54 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 4.

> *by staff or subcontractors of the contractor working at home. Secondly, recordings and transcriptions must be stored and accessible to only those contractor and subcontractor staff who need specific access to this material. Thirdly, an audit trail must be maintained of all staff who access the audio and transcripts and made available to the department upon request. Fourthly, the recordings and transcriptions must only be made available to a list of parties provided by the department or by approval of the department. All vendor staff and subcontractors will be required to sign a deed of confidentiality and a deed of privacy. For covert matters we will record using portable technology and will arrange for a former SRB staff member who has a security clearance from the Crime and Misconduct Commission to transcribe the recording on site. There will be no involvement of an external vendor in this type of proceeding.*[55]

The Committee pursued this matter further with the Department at the briefing to gain a detailed understanding of what the Attorney-General fully intended in relation to confidentiality arrangements. The Department confirmed:

> *There will also be criminal history checks undertaken of the senior operators within the selected vendor as well. It is a very mature market that is in place with respect to providing recording and transcription services across Australia. As mentioned earlier, this service is provided to the Family Court, the Federal Court and in Western Australia in a large way. There will be a lot of reference checking that we will be undertaking of vendors prior to selecting a vendor for this process. So we will be ensuring the vendors have the technology and the business arrangements in place that ensures the privacy of the material that is being recorded by those vendors and transcribed by those staff.*
>
> *...*
>
> *We will be undertaking our own checks. Depending on where the work is physically being transcribed, there will be additional checks undertaken. For example, in relation to any work that is done outside Queensland they need to comply with the federal Department of Defence's information security manual. There is a fairly high bar that has been set with respect to the security around that information as well as, as I mentioned earlier, with respect to audio and transcripts not being prepared by people outside the office environment of the vendor.*[56]

On a similar theme, both the Land Court of Queensland and the Queensland Law Society raised the issue of confidentiality of material with the Committee in their submissions. The Queensland Law Society submitted:

> *The Queensland Law Society has previously expressed its concern regarding the government's decision to outsource the production of recordings and transcripts of court proceedings to the private sector. We have highlighted that depending on the nature of the service agreement with the private entity, there were risks having a private company managing and controlling controversial or sensitive material.*
>
> *We have noted our specific concern about how transcripts of closed, confidential proceedings, such as criminal organisation hearings or hearings regarding electronic surveillance warrants would be managed. The Society posits that courts and the government will not have the same level of assurance of confidentiality or control over*

55 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 4.

56 *Transcript of Proceedings,* Public Briefing – Examination of Classification of Computer Games and Images and Other Legislation Amendment Bill, 28 November 2012, page 5.

> *transcript management as it did when transcript services were managed by the State Reporting Bureau. Therefore, we seek clarification as to whether there will be the same level of quality control and confidentiality as has always existed. We propose that any outsourcing agreement needs to contain provisions which serve to assure the court and practitioners alike that the quality of the transcripts will not suffer, and that any complaints will be addressed promptly and appropriately.*[57]

The Land Court of Queensland went one step further and submitted that the Bill should provide expressly that the "arrangements" entered into by the chief executive must include provisions to require the recorder to ensure that confidentiality, privacy and quality of transcripts are maintained.[58]

In response to these specific concerns, the Department restated the four additional requirements outlined to the Committee at the public briefing (above) and also confirmed:

> *The Conditions of Contract provided with the tender documents contain provisions with respect to confidentiality, privacy and personal information and security and access.*
>
> *Part 4, chapter 1 of the* Information Privacy Act 2009 *has the effect of requiring DJAG to take all reasonable steps to ensure that a contracted service provider is required to comply with parts 1 and 3 of that Act. These are the parts that apply the Information Privacy Principles.*
>
> *DJAG will bring the privacy principles to the contracted service provider's attention and ensure that the entity understands that it is bound by those principles.*[59]

The Committee is satisfied that the Department has gone to appropriate lengths to ensure that the confidentiality of sensitive material will been maintained under the outsourcing arrangements. The Committee is not convinced that there is a requirement to enshrine this in legislation, however reiterates its earlier statements that if the full details of the requirements imposed on the service provider are publicly available, it will improve the public's confidence in the administration of the justice system.

Retention and Disposal of Master Recordings

The Land Court of Queensland raised the issue of retention and disposal of master recordings in its submission to the Committee as follows:

> *Under the Act, a record on a master-tape cannot be destroyed … until a transcription of the record has been made. There appear to be no exceptions to this.*
>
> *As a result, the Land Court has many years' worth of master-tapes in on-site and off-site storage locations ... there seems little or no utility in keeping such tapes.*
>
> *The Land Court has limited physical storage capacity. … It is understood that this is an issue for all Queensland courts, not just the Land Court.*
>
> *In the circumstances, the Court considers it would be appropriate to allow the destruction of master-tapes after 7 years. The 7-year period is nominated as the appropriate retention period as it is consistent with the minimum retention periods identified in the Court's Retention and Disposal Schedule.*[60]

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57 Queensland Law Society, Submission 6, page 1.

58 Land Court of Queensland, Submission 2, page 2.

59 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, pages 6-7.

60 Land Court of Queensland, Submission 2, pages 2-3.

The Land Court of Queensland went on to recommend that the Bill be amended to allow the destruction of master recordings where a transcription has not been made by order of the court or otherwise after seven years.[61]

The Committee notes the Department's response was that this matter was not within the scope of implementing the current policy on outsourcing of recording and transcription services and that it will be considered during the Department's separate review of the policy and legislation covering retention of court records.[62]

Costs of transcripts

The Queensland Law Society raised concerns in its submission to the Committee in relation to the cost of transcripts under the outsourcing arrangements. The Queensland Law Society submitted:

> *From a financial standpoint, we question whether transcript costs will be regulated. In our view, a failure to control transcript costs has the potential to result in inappropriate cost increases which would be passed on to clients. This in turn might negatively impact the ability of Queenslanders to access justice. In our view, an unregulated private enterprise which provides a vital public service for anyone involved in court proceedings and for which there is no competition, should be the subject of price control measures. We also propose that court transcripts that are currently available for free should continue to be made available on a no cost basis.*[63]

The Department's response to this issue confirmed there was no intention to establish a mechanism to control the price charged by the contractor for transcriptions. The Department did confirm however that the current fee waiver regime will continue, with fees waived on the grounds of financial hardship.[64]

The Department stated:

> *It is anticipated that amendments to the* Recording of Evidence Regulation 2008*, consequential on changes to the Act, will be made if the Bill is passed. It is intended that parties to proceedings who currently receive free or reduced cost transcriptions or recordings under the financial hardship provision will continue to do so under the outsourced model. Judicial persons presiding over matters will continue to receive records or transcriptions, as will defendants in criminal proceedings as currently provided. It is also expected that victims of crime who currently receive a free transcription of the sentence will continue to do so.*[65]

The Committee agrees that it is imperative that court transcripts that are currently available for free to the above categories of persons, must continue to be made available on a no cost basis. Should the Bill be passed, the Committee will revisit this matter in its role of considering all subordinate legislation within its portfolio area of responsibility to ensure the status quo is maintained.

The Committee also shares the concerns of the Queensland Law Society that a lack of control over transcript costs has the potential to negatively impact the ability of Queenslanders to access justice. The Committee notes that the fees for provision of transcripts are currently set by Regulation, giving

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61 Land Court of Queensland, Submission 2, page 3.

62 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, page 7.

63 Queensland Law Society, Submission 6, page 2.

64 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, page 8.

65 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, page 8.

all Members an ability to move a motion to disallow the Regulation if they considered a fee increase to be too high. The Government has published policies on its mechanisms to increase fees and charges through subordinate legislation and these are monitored by the Portfolio Committees.

The Committee considers that it would not be appropriate in the interests of justice, to allow the fees and charges for provision of court transcripts to increase unchecked. The Committee considers that the fees and charges which the service provider is able to charge for provision of transcripts remain in the Regulations and increase in line with approved Government policy. The Committee is not wedded to a particular mechanism and, alternatively, another option may be to include the mechanism to increase any fees into the arrangements agreed to by the chief executive of the Department, which will in turn be publicly available. The Committee does not consider that this matter should go unchecked.

Recommendation 4

The Attorney-General and Minister for Justice consider a suitable mechanism for controlling the price of providing transcripts be implemented as part of the outsourcing arrangements.

The requirement for all relevant matters to be transcribed

In its submission, the Bar Association of Queensland made the following technical observation relating to the terminology used in the proposed new section 5 and how it relates to an Arbitration under the Recording of Evidence Act:

> *The changes to the system enabled by these legislative amendments must not allow an erosion of the services presently available. An accurate, reliable and timely service must be maintained in the view of the Association.*
>
> *Furthermore, the Association notes that by Clause 50 of the Bill, s.5 of the Act is to be replaced by a section requiring all relevant matters in a legal proceeding to be recorded.*
>
> *By the definition given to legal proceedings in s.4 of the Act, which is to include an Arbitration, the Association notes with concern that a legislative requirement that all relevant matter be recorded has the potential to significantly increase the cost to the parties involved.*
>
> *Whilst sub-section (4) permits the presiding person to direct that the proceeding not be recorded, the amendment represents a shift from the current legislative provision which is to the effect that a recording is only required if the person hearing the proceedings so directs.*
>
> *The Association is of the opinion that, in relation to Arbitrations in particular, the parties should have greater control over the decision whether or not to record the proceedings under the Act.*[66]

The Department responded to this submission as follows:

> *New section 5 effects the same outcome as the existing section 5, that is, recording of a legal proceeding is not mandatory. In addition the current Act requires that where such recording is undertaken a reporter or recorder appointed under the* Recording of Evidence Act 1962 *must be used. Outside of tribunals and courts it appears that the practice is not always to use recorders or reporters appointed under the* Recording of Evidence Act 1962 *where a proceeding such as arbitration is ordered to be recorded. DJAG will liaise further*

[66] Bar Association of Queensland, Submission 5, pages 1-2.

with the Bar Association Queensland and consider whether amendment should be made to address these issues.[67]

In its examination of the new section 5 referred to by the Bar Association of Queensland, the Committee considers that there has been a distinct shift in the wording used compared to the previous section which could have the effect put forward by the Bar Association of Queensland. If that position is accepted, coupled with an unregulated price setting arrangement mentioned earlier, the Committee considers that it is a very real scenario that significant increases to the cost of parties involved in an Arbitration could occur.

The Committee considers that this matter must be investigated further by the Department and resolved prior to the Bill being read a second time.

2.8 Other amendments

Part 9 of the Bill makes consequential or minor amendments to various legislation listed in Schedule 1 and Schedule 2 to the Bill.

Clause 60 is a consequential amendment as it amends the legislation listed in Schedule 1 by replacing '*references to the* Neighbourhood Disputes Resolution Act 2011 *with a reference to the Act by its new short title, the* Neighbourhood Disputes (Dividing Fences and Trees) Act 2011.'[68]

Clause 61 makes minor amendments to a range of other legislation.

The Committee has reviewed these clauses and is satisfied that no issues arise out of the proposed changes.

[67] Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Report of the Department of Justice and Attorney-General*, 12 December 2012, page 7.

[68] Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 21.

3. Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that 'fundamental legislative principles' are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals; and
- the institution of Parliament.

The Committee has examined the application of the fundamental legislative principles to the Bill. The Committee brings the following to the attention of the Legislative Assembly.

3.1 Rights and liberties of individuals

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation has sufficient regard to the rights and liberties of individuals.

Offences and Penalties

The amendments to the *Classification of Computer Games and Images Act 1995* create new offences in relation to the demonstration, sale, delivery and advertisement of R18+ computer games.

The maximum penalties for the R18+ offences range from 50 penalty units to 100 penalty units with the highest maximum penalties applying to the offences of sale or delivery of R18+ computer games to a minor and the sale or delivery of an unclassified computer game which if it was classified, would be classified as R18+.

In relation to the level of penalties, the Explanatory Notes indicate that:

> *The introduction of the R18+ classification of computer games seeks to strike an appropriate balance between the rights of adults to see and hear what they wish and the protection of minors from unsuitable material.*
>
> *The level of penalties for the R18+ offences is considered justifiable in providing an appropriate deterrent to retailers of R18+ products in situations where there may be commercial rewards for non-compliance and the incentive to make cost/benefit assessments in relation to non-compliance. The penalties are also consistent with a regulatory regime aimed at ensuring appropriate safeguards for minors from exposure to material which may harm them.*[69]

In addition, the maximum penalties of several other offences in the *Classification of Films Act 1991* have been increased to ensure consistency and proportionality between penalties. In particular, the offences for the sale or delivery of MA15+ computer games to minors and the sale of unclassified computer games which, if they were classified, would be classified as MA15+, have been increased to 50 penalty units.

The Explanatory Notes state that:

> *As with the R18+ offences, the level of penalties is considered justifiable in providing an appropriate deterrent in situations where there may be significant commercial rewards for non-compliance.*[70]

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69 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 6.

70 Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 6.

The Committee considered the principles noted in *The OQPC Notebook*[71] that penalties within legislation should be consistent with each other. The Committee considers the Bill achieves greater consistency with penalties and also that the level of the proposed penalties is appropriate.

A summary of the proposed new offence provisions are set out below:

Clause	Proposed new offence	Proposed maximum penalty
	Amendment of *Classification of Computer Games and Images Act 1995*	
Amended section 9(1)(a)	Demonstrating or attempting to demonstrate an unclassified computer game in a public place where the computer game, if classified, would be classified as a G computer game.	5 penalty units ($550)
New section 9(1)(c)	Demonstrating or attempting to demonstrate an unclassified computer game in a public place where the computer game, if classified, would be classified as R18+.	50 penalty units ($5,500)
Amended section 10(3)	Demonstrating or attempting to demonstrate a R18+ computer game in a public place if a minor is present.	50 penalty units ($5,500)
New section 10(5)	Demonstrating or attempting to demonstrate a MA15+ computer game in a public place unless the determined markings for the game are displayed before the game is demonstrated.	40 penalty units ($4,400)
New section 10(5)	Demonstrating or attempting to demonstrate a R18+ computer game in a public place unless the determined markings for the game are displayed before the game is demonstrated.	40 penalty units ($4,400)
New section 10AA	Demonstrating or attempting to demonstrate a R18+ computer game in a place that is not a public place in the presence of a minor unless the person is a parent or guardian of the minor or has the consent of a parent or guardian of the minor.	50 penalty units ($5,500)
Amended section 16(a)	Selling or attempting to sell a classified computer game containing an advertisement for - if the computer game is classified as a G computer game - a computer game classified as R18+.	10 penalty units ($1,100)
Amended section 16(b)	Selling or attempting to sell a classified computer game containing an advertisement for - if the computer game is classified as a PG computer game - a computer game classified as R18+.	10 penalty units ($1,100)

[71] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, January 2008 at page 120.

Clause	Proposed new offence	Proposed maximum penalty
Amended section 16(c)	Selling or attempting to sell a classified computer game containing an advertisement for - if the computer game is classified as a M computer game - a computer game classified as R18+.	10 penalty units ($1,100)
Amended section 16(d)	Selling or attempting to sell a classified computer game containing an advertisement for - if the computer game is classified as a MA15+ computer game - a R18+.	10 penalty units ($1,100)
New section 16(e)	Selling or attempting to sell a classified computer game containing an advertisement for - if the computer game is classified as a R18+ computer game - an objectionable computer game.	10 penalty units ($1,100)
Amended section 17	Displaying or attempting to display, for sale, a R18+ computer game or an advertisement for a R18+ computer game other than in compliance with the conditions prescribed under a regulation.	10 penalty units ($1,100)
New section 18(2)	Selling or delivering, or attempting to sell or deliver, a R18+ computer game to a minor.	100 penalty units ($11,000)
Amended section 19(1)(a)	Selling or attempting to sell an unclassified computer game that, if it were classified, would be classified as a G, PG or M computer game.	10 penalty units ($1,100) (previously $550)
Amended section 19(1)(b)	Selling or attempting to sell an unclassified computer game that, if it were classified, would be classified as a MA15+ computer game.	50 penalty units ($5,500) (previously $1,100)
Amended section 19(1)(c)	Selling or attempting to sell an unclassified computer game that, if it were classified, would be classified as a R18+ computer game.	100 penalty units ($11,000)
Amended section 23	Demonstrating or attempting to demonstrate an objectionable computer game in the presence of a child.	100 penalty units ($11,000) (previously $1,100)

Clause	Proposed new offence	Proposed maximum penalty
	Amendment of *Classification of Films Act 1991*	
Amended section 22(2)	Exhibiting or attempting to exhibit, in a public place, a film classified as a R 18+ film if a minor who has reached 2 years is, or will be, present at any time during the exhibition of the film.	50 penalty units ($5,500) (previously $1,100)
New section 33(1A)	Selling or delivering, or attempting to sell or deliver, a film classified as a R18+ film to a minor.	100 penalty units ($11,000) (previously $2,200)
Amended section 34(a)	Displaying for sale or selling, or attempting to display for sale or attempting to sell, an objectionable or unclassified film that, if it were classified, would be classified as a G, PG or M film.	10 penalty units ($1,100) (previously $550)
Amended section 34(b)	Displaying for sale or selling, or attempting to display for sale or attempting to sell, an objectionable or unclassified film that, if it were classified, would be classified as a MA15+ film.	50 penalty units ($5,500) (previously $770)
Amended section 34(c)	Displaying for sale or selling, or attempting to display for sale or attempting to sell, an objectionable or unclassified film that, if it were classified, would be classified as a R 18+ film.	100 penalty units ($11,000) (previously $1,100)
Amended section 34(d)	Displaying for sale or selling, or attempting to display for sale or attempting to sell, an objectionable or unclassified film, for a X 18+ film or an unclassified film that, if classified, would be a X 18+ film.	150 penalty units ($16,500) (previously 50pu)
Amended section 38(1)	Exhibiting or attempting to exhibit, a film classified as a R 18+ film in a place that is not a public place in the presence of a minor unless the person is a parent or guardian of the minor of has the consent of a parent or guardian of the minor.	50 penalty units ($5,500) (previously $1,100)

Subject to appropriate review

The omission of section 59 of the *Classification of Films Act 1991* raises a potential issue regarding the fundamental legislative principle that legislation should make rights dependent on administrative power only if subject to appropriate review.

Pursuant to section 59, a decision by the State films classification officer to refuse an exemption could be reviewed via application to the Queensland Civil and Administrative Tribunal. The Bill removes this avenue of review.

In relation to any potential breach of fundamental legislative principles, the Explanatory Notes state:

> *While there is no specific right of appeal from a decision by the Director, an applicant will still have the right to submit the film to the Classification Board for formal classification to enable the film to be exhibited publicly. However, if the film receives a classification which makes it illegal to be publicly screened, this would effectively confirm the Director's decision to refuse the exemption.*[72]

The Committee is satisfied the amendments are acceptable in order to maintain consistency with the National Classification Scheme.

3.2 Institution of Parliament

Section 4(2)(b) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to the institution of Parliament.

Immunity from proceedings

The amendments to the *Classification of Computer Games and Images Act 1995, Classification of Films Act 1991* and *Classification of Publications Act 1991* include provisions to protect specified persons who carry out functions under the legislation from criminal liability for acts done honestly and without negligence. This immunity raises an issue regarding equality before the law.

The Explanatory Notes maintain that:

> *The immunity is justifiable because the performance of classification functions may involve possession and distribution of material which may constitute objectionable material or child exploitation material and which may otherwise constitute a criminal offence. The protection is not an absolute immunity but is qualified by requirements of honesty and lack of negligence.*[73]

The Committee considers that these types of exculpatory provisions are not unusual in Queensland legislation and are appropriate in this instance.

Delegation of administrative power

The amendments to sections 57 and 58 of the *Classification of Films Act 1991* raise an issue regarding the fundamental legislative principle that legislation must have sufficient regard to the institution of Parliament by allowing the delegation of legislative power only in appropriate cases and to appropriate persons and that it sufficiently subjects the exercise of the delegated legislative power to Parliament. Both the State films classification officer and the Director of the Classification Board presently have power to determine applications to exempt films in Queensland. The Bill provides for the Director of the Classification Board alone to determine exemptions for films. In addition, the amendments give the Minister power to issue directions or guidelines in relation to the application of the Act to which the Director must give effect.

The Explanatory Notes indicate that:

> *This is similar to legislation in other jurisdictions such as New South Wales and Victoria. The amendments are justified because the purpose is to streamline and standardise the process*

[72] Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 7.

[73] Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, pages 5-6.

> *for applicants seeking exemption - in particular, national film festival organisers - and to promote the objectives of the national co-operative classification scheme.*[74]

With respect to any administrative delegation there is always an issue to consider whether the delegate is an appropriate person to undertake that administrative duty. The Committee considers in this case that permitting a director or films classification officer to determine exemption applications in specified circumstances would be an appropriate delegation of administrative power.

[74] Classification of Computer Games and Images and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 7.

Appendices

Appendix A – List of Submissions

Sub #	Submitter
001	Interactive Games and Entertainment Association
002	Land Court of Queensland
003	Family Voice Australia
004	Australian Christian Lobby
005	Bar Association of Queensland
006	Queensland Law Society