Films, Videos, and Publications Classification Amendment Act 2012

Public Act	2012 No 62
Date of assent	30 August 2012
Commencement	see section 2

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Schedule 8
Amendments to Films, Videos, and Publications Classification Regulations 1994

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Films, Videos, and Publications Classification Amendment Act 2012.

2 Commencement

This Act comes into force on 1 October 2012.

3 Principal Act amended

This Act amends the Films, Videos, and Publications Classification Act 1993.

4 Interpretation

The definition of **register** in section 2 is amended by omitting "Register of Classification Decisions kept" and substituting "register of classification decisions established and maintained".

5 Films to be labelled

(1) Section 6(1) is amended by repealing paragraph (b) and substituting the following paragraph:

> (b) the requirements of this Act and of any regulations made under this Act with respect to the display of that label are complied with.

(2) Section 6(2) is amended by repealing paragraph (b) and substituting the following paragraph:

(b) the requirements of this Act and of any regulations made under this Act with respect to the display and advertising of the contents of that label are complied with.

6 Conditions relating to display of restricted publications

Section 27(4)(a)(ii) is amended by omitting "affixed to" and substituting "displayed on".

7 When decision on publication referred by court to take effect

Section 31(d) is amended by omitting "determination" and substituting "decision".

8 New heading above section 38 substituted

The heading above section 38 is repealed and the following heading substituted:

Notice of classification decisions

9 New heading inserted above section 39

The following heading is inserted above section 39:

Classification decisions made on or after 1 October 2012

10 New sections 39 and 40 substituted

Sections 39 and 40 are repealed and the following sections substituted:

39 Register of classification decisions made on or after 1 October 2012

(1) The Chief Censor must establish and maintain a register of classification decisions made on or after 1 October 2012.

(2) The register must be established and maintained in an electronic medium.

(3) There must be entered in the register for each publication examined by the Classification Office or the Board the following information:

(a) the decision as to the publication's classification; and

(b) the date on which notice of the decision was given, under section 38(1), by the Classification Office or, under section 55(1)(c), by the Board; and

(c) the date of entry of the decision in the register; and

(d) such other information as may be prescribed in regulations made under section 149.

(4) The information specified in subsection (3) must be entered in the register,—

(a) in the case of a publication examined by the Classification Office, within 5 working days after the date on which, under section 38(1), the Classification Office gives notice of its decision:

(b) in the case of a publication examined by the Board, within 5 working days after the date on which, under section 55(1)(c), the Board gives notice of its decision.

(5) The Chief Censor must take all reasonable steps to ensure that the information contained in the register is available at all reasonable times for inspection by the public.

(6) The Chief Censor must supply to any person a paper or an electronic copy of all or part of the register on request and on payment of a reasonable charge for the production of the copy.

40 Search criteria

(1) The register must be established and maintained so that it may be searched by reference to all or any 1 or more of the following criteria:

(a) the title of a publication:

(b) a specified date or period of entry of decisions in the register:

(c) a kind of classification.

(2) The register may be established and maintained so that it may be searched by reference to any criteria additional to the criteria in subsection (1).

11 Decisions to be conclusive evidence

Section 41(2) is amended by omitting ", in accordance with section 40(3), first made open to inspection by the public in a list produced in accordance with section 40(1)" and substituting "entered in the register in accordance with section 39".

12 Reconsideration of publications

Section 42(1) and (2) are amended by omitting ", in accordance with section 40(3), first made open to inspection by the public in a list produced in accordance with section 40(1)" and substituting in each case "entered in the register in accordance with section 39".

13 New heading and sections 42A to 42C inserted

The following heading and sections are inserted after section 42:

Classification decisions made before 1 October 2012

42A Register of classification decisions made before 1 October 2012

(1) The Chief Censor must—

(a) continue to maintain, in any form the Chief Censor considers appropriate, the register that was established under section 39 prior to the repeal and substitution of that section by section 10 of the Films, Videos, and Publications Classification Amendment Act 2012; and

(b) continue to make that register open to inspection by the public during ordinary office hours.

(2) Nothing in this section prevents the Chief Censor combining—

(a) the register that continues to be maintained under subsection (1); and

(b) the register that is established and maintained under section 39 (as substituted by section 10 of the Films, Videos, and Publications Classification Amendment Act 2012).

(3) If the Chief Censor combines the registers referred to in subsection (2), the search criteria in section 40 do not apply to the register that continues to be maintained under subsection (1).

42B Classification Office to publish list of decisions made before 1 October 2012

(1) The Classification Office must continue to—

(a) keep the lists produced in accordance with section 40 prior to the repeal of that section by section 10 of the Films, Videos, and Publications Classification Amendment Act 2012; and

(b) make those lists open to inspection by the public during ordinary office hours; and

(c) supply to any person on request, and on payment of a fee (if any), a copy of any such list.

(2) Any fee charged under subsection (1)(c) must be no more than is reasonably required to recover the cost of supplying the list.

42C Saving in respect of decisions made before 1 October 2012

The provisions of this Act and the Films, Videos, and Publications Classification Regulations 1994 continue to apply to decisions made by the Classification Office or Board before 1 October 2012 as if the Films, Videos, and Publications Classification Amendment Act 2012 had not been enacted.

14 Right of review

Section 47(3A) is amended by omitting ", in accordance with section 40(3), first made open to inspection by the public in a list produced in accordance with section 40(1)" and substituting "entered in the register in accordance with section 39".

15 Deadline for lodging applications for review

Section 48A(a) and (b) are amended by omitting ", in accordance with section 40(3), first made open to inspection by the public in a list produced in accordance with section 40(1)" and substituting in each case "entered in the register in accordance with section 39".

16 Decision of Board

(1) Section 55(1) is amended by repealing paragraph (e) and substituting the following paragraph:

(e) direct the Classification Office to enter the Board's decision in the register.

(2) Section 55 is amended by inserting the following subsection after subsection (2):

(2A) Before giving written notice of its decision under subsection (1)(c), the Board may inform the persons specified in that paragraph of—

(a) the classification given to the publication under subsection (1)(a); and

(b) any conditions imposed under subsection (1)(b).

(3) Section 55(3) is amended by omitting "determination" and substituting "decision".

17 Appeal against decision of Board on question of law

Section 58 is amended by omitting "determination" in each place where it appears and substituting in each case "decision".

18 Notice of appeal

(1) Section 59(1) is amended by omitting "of the determination" and substituting "the decision is given".

(2) Section 59 is amended by inserting the following subsection after subsection (1):

(1A) For the purpose of subsection (1), a decision is given when the Board gives written notice, under section 55(1)(c), of its decision and of the reasons for its decision.

(3) Section 59 is amended by omitting "determination" in each place where it appears and substituting in each case "decision".

19 Appeal in respect of additional points of law

Section 62(1) is amended by omitting "determination" and substituting "decision".

20 Orders relating to determination of appeals

Section 63(1)(b) and (c) are amended by omitting "determination" and substituting in each case "decision".

21 Non-compliance with labelling requirements

(1) Section 120(1)(b) is amended by omitting "affixed either to it or to" and substituting "displayed either on it or on".

(2) Section 120(3) is amended by omitting "affixed to" and substituting "displayed on".

22 Fees charged by Classification Office to be reasonable

Section 148 is amended by—

(a) omitting "section 40(4)" and substituting "section 39(6)"; and

(b) omitting "making" and substituting "supplying".

23 Regulations

(1) Section 149(i)(i) is amended by—

(a) omitting "affixing of such labels to" and substituting "display of such labels on"; and

(b) omitting "to the cassettes" and substituting "on the cassettes".

(2) Section 149(i)(iii) is amended by omitting "the affixing of such labels to, or".

(3) Section 149 is amended by repealing paragraph (l) and substituting the following paragraph:

(l) prescribing information to be included in the register of classification decisions:

(4) Section 149(m) is repealed.

24 Decisions under Indecent Publications Act 1963

Section 152(4) is amended by omitting "in accordance with section 40(3), first made open to inspection by the public in a list produced in accordance with section 40(1)" and substituting "entered in the register".

25 Classification decisions under Video Recordings Act 1987

Section 161(5) is amended by omitting "in accordance with section 40(3), first made open to inspection by the public in a list produced in accordance with section 40(1)" and substituting "entered in the register".

26 Classification decisions under Films Act 1983

Section 168(5) is amended by omitting "in accordance with section 40(3), first made open to inspection by the public in a list produced in accordance with section 40(1)" and substituting "entered in the register".

27 Consequential amendments to Films, Videos, and Publications Classification Regulations 1994

The Films, Videos, and Publications Classification Regulations 1994 are amended in the manner set out in the Schedule.

Schedule
Amendments to Films, Videos, and Publications Classification Regulations 1994

s 27

Heading above regulation 19

Revoke and substitute:

Films labels

Regulation 19

Revoke and substitute:

19 Displaying labels

(1) Except as provided in sections 7 and 8 of the Act, every film that is supplied to the public or offered for supply to the public must have displayed on it, in the following manner, the label issued in respect of that film:

(a) 1 copy of the label must be displayed,—

(i) if there is a film slick inserted inside the sleeve of the display case relating to the film, on that film slick so as to be visible through the front face of the display case; or

(ii) if there is no film slick inserted inside the sleeve of the display case relating to the film, on the front face of the display case; and

(b) 1 copy of the label must also be displayed,—

(i) if the film is in a cassette, on the front face of the cassette or on the spine of the cassette; or

(ii) if the film is on a spool or other similar device, on the front face of the spool or device.

(2) Every label required to be displayed, pursuant to this regulation, on any film must be of the following size:

(a) in the case of a label required to be displayed pursuant to subclause (1)(a), not less than 2.5 cm in height and not less than 5.5 cm in width:

(b) in the case of a label required to be displayed pursuant to subclause (1)(b), not less than 1.75 cm in height and not less than 4.5 cm in width.

Regulation 20

Heading to regulation 20: omit "**affixing**" and substitute "**display**".

Subclause (1): omit "affixed, pursuant to regulation 19, to any film shall be affixed" and substitute "displayed, pursuant to regulation 19, on any film must be displayed".

Subclause (2): omit "affixed pursuant to regulation 19 to" and substitute "displayed, pursuant to regulation 19, on".

Regulation 20—*continued*

Subclause (2): omit "so affixed that" and substitute "displayed so that".

Subclause (3): omit "affixed, pursuant to regulation 19, to" in each place where it appears and substitute in each case "displayed, pursuant to regulation 19, on".

Subclause (3): omit "shall be so affixed" and substitute "must be displayed so".

Subclause (5): omit "shall be affixed to" and substitute "must be displayed on".

Heading above regulation 20A

Omit "*Affixing, etc, of labels*" and substitute "*Labels*".

Regulation 20A

Heading to regulation 20A: omit "**affixed**" and substitute "**displayed**".

Subclause (1)(a): revoke and substitute:

(a) displayed on the publication in the manner specified in the relevant condition imposed by the Classification Office or the Board of Review pursuant to section 27(4)(a) of the Act; or

Subclause (2): omit "affixed to" and substitute "displayed on".

Regulation 20B

Revoke and substitute:

20B Cancelled labels

(1) This regulation applies when a label issued in respect of a publication under regulation 18A or 18B is deemed, under section 36A(3) of the Act, to be cancelled.

(2) The label must be—

(a) removed; or

(b) covered by the new label so as to no longer be visible; or

(c) permanently obscured by some other means.

Regulation 35

Omit "particulars" in each place where it appears and substitute in each case "information".

Subclause (1): omit "kept" and substitute "established and maintained".

Subclause (1)(h): revoke.

Subclause (2): omit "paragraphs (a) and (b) of section 39(2)" and substitute "section 39(3)(a) to (c)".

Regulation 36

Revoke.

Regulation 43(1)(b)(ii)

Revoke and substitute:

(ii) the date on which the Classification Office gave notice of its decision under section 38(1) of the Act; and

(iii) the date of entry of the decision in the register; and

Regulation 62(a)

Omit "so affixed to the film" and substitute "displayed on the film in such a way".

Form 1 of Schedule 2

Omit "recorded in a list produced in accordance with section 40 of that Act and published" and substitute "entered in the register of classification decisions".

Legislative history

22 August 2012	Divided from Regulatory Reform Bill (Bill 269–2) by committee of the whole House as Bill 269–3E
23 August 2012	Third reading
30 August 2012	Royal assent

This Act is administered by the Department of Internal Affairs.

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