



# Films, Videos, and Publications Classification (Interim Restriction Orders) Amendment Act 2017

Public Act 2017 No 43  
Date of assent 4 December 2017  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Films, Videos, and Publications Classification (Interim Restriction Orders) Amendment Act 2017.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 Principal Act**

This Act amends the Films, Videos, and Publications Classification Act 1993 (the **principal Act**).

**Part 1****Substantive amendments to principal Act****4 Section 49 replaced (Interim restriction orders)**

Replace section 49 with:

**49 Interim restriction orders on review**

- (1) A person who is entitled, under section 53(2), to make written submissions to the Board in relation to a publication submitted for review under section 47 may, at any time before the review is completed, apply to the President of the Board for an interim restriction order in respect of the publication.
- (2) The President must, as soon as practicable,—
  - (a) grant the application, if he or she is satisfied that it is in the public interest to do so; or
  - (b) decline the application.
- (3) If the President grants the application, he or she must make an interim restriction order in respect of the publication that—
  - (a) prohibits the doing of any act or thing in relation to the publication that, if the publication were an objectionable publication, would be an offence against any of the following:
    - (i) section 123(1)(c), (d), or (e):
    - (ii) section 127:
    - (iii) section 129; or
  - (b) restricts the availability of the publication to—
    - (i) persons who have attained the age of 18 years or a specified younger age; or
    - (ii) specified persons or classes of persons; or

- (c) restricts the use of the publication to 1 or more specified purposes (which may be made in conjunction with an order made under paragraph (b)).
- (4) When determining whether to make an order under subsection (3)(b) or (c), the President need not take into account the matters referred to in sections 3(4)(a) to (f), 3A, and 3B that apply when determining whether a publication is to be classified as a restricted publication.

## **5 Section 67 replaced (Imposition of interim restrictions on appeal)**

Replace section 67 with:

### **67 Interim restriction orders on appeal**

- (1) A party to an appeal under section 58 may, at any time before the appeal is determined, apply on notice to the High Court or a Judge of that court for an interim restriction order in respect of the publication that is the subject of the appeal.
- (2) The High Court or Judge must, as soon as practicable,—
  - (a) grant the application, if the High Court or Judge is satisfied that it is in the public interest to do so; or
  - (b) decline the application.
- (3) If the High Court or Judge grants the application, the High Court or Judge must make an interim restriction order in respect of the publication that—
  - (a) prohibits the doing of any act or thing in relation to the publication that, if the publication were an objectionable publication, would be an offence against any of the following:
    - (i) section 123(1)(c), (d), or (e):
    - (ii) section 127:
    - (iii) section 129; or
  - (b) restricts the availability of the publication to—
    - (i) persons who have attained the age of 18 years or a specified younger age; or
    - (ii) specified persons or classes of persons; or
  - (c) restricts the use of the publication to 1 or more specified purposes (which may be made in conjunction with an order made under paragraph (b)).
- (4) When determining whether to make an order under subsection (3)(b) or (c), the High Court or Judge need not take into account the matters referred to in sections 3(4)(a) to (f), 3A, and 3B that apply in determining whether a publication is to be classified as a restricted publication.

**6 New section 133A inserted (Contravention of interim restriction order)**

After section 133, insert:

**133A Contravention of interim restriction order**

- (1) A person commits an offence who, having knowledge of an order made in respect of a publication under section 49(3)(a) or 67(3)(a), fails to comply with that order.
- (2) A person commits an offence who, having knowledge of an order made in respect of a publication under section 49(3)(b) or (c) or 67(3)(b) or (c),—
  - (a) fails to comply with that order; or
  - (b) delivers the publication to any other person with the intention that it be dealt with by any person in contravention of the order.
- (3) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine not exceeding,—
  - (a) in the case of an individual, \$3,000; or
  - (b) in the case of a body corporate, \$10,000.

**Part 2****Consequential amendments to principal Act****7 Section 29 amended (Character of publications arising in court proceedings)**

In section 29(1), after “section 116”, insert “but not including proceedings under section 67”.

**8 Section 107 amended (Inspector may seize publications)**

- (1) In section 107(2)(b)(ii), replace “publication is being publicly displayed in contravention of section 130 or section 133” with “public display of the publication constitutes an offence under section 130, 133, or 133A”.
- (2) In section 107(3)(b), replace “poster is being publicly displayed in contravention of section 130 or section 133” with “public display of the poster constitutes an offence under section 130, 133, or 133A”.

**9 Section 133 replaced (Contravention of serial publication order or interim restriction order)**

Replace section 133 with:

**133 Contravention of serial publication order**

- (1) A person commits an offence who fails to comply with section 37(5) or (6).
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding,—

- (a) in the case of an individual, \$3,000; or
- (b) in the case of a body corporate, \$10,000.

**10 Section 144 amended (Attorney-General's consent required for private prosecutions of certain publications offences)**

Replace section 144(d) with:

- (d) section 133 (contravention of serial publication order):
- (e) section 133A (contravention of interim restriction order).

**Legislative history**

10 November 2016	Introduction (Bill 205–1)
7 December 2016	First reading and referral to Justice and Electoral Committee
7 June 2017	Reported from Justice and Electoral Committee (Bill 205–2)
28 June 2017	Second reading
26 July 2017	Committee of the whole House
29 November 2017	Third reading
4 December 2017	Royal assent

This Act is administered by the Department of Internal Affairs.